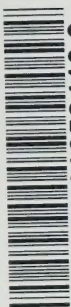


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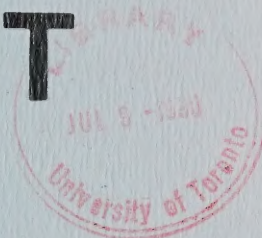


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Ontario

ENVIRONMENTAL ASSESSMENT BOARD



VOLUME: 221

DATE: Wednesday, June 27, 1990

BEFORE:

A. KOVEN, Chairman

E. MARTEL, Member

FOR HEARING UPDATES CALL (TOLL-FREE): 1-800-387-8810

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HEARING ON THE PROPOSAL BY THE MINISTRY OF NATURAL
RESOURCES FOR A CLASS ENVIRONMENTAL ASSESSMENT FOR
TIMBER MANAGEMENT ON CROWN LANDS IN ONTARIO

IN THE MATTER of the Environmental
Assessment Act, R.S.O. 1980, c.140;

- and -

IN THE MATTER of the Class Environmental
Assessment for Timber Management on Crown
Lands in Ontario;

- and -

IN THE MATTER OF a Notice by the
Honourable Jim Bradley, Minister of the
Environment, requiring the Environmental
Assessment Board to hold a hearing with
respect to a Class Environmental
Assessment (No. NR-AA-30) of an
undertaking by the Ministry of Natural
Resources for the activity of timber
management on Crown Lands in Ontario.

Hearing held at the offices of the Ontario
Highway Transport Commission, Britannica
Building, 151 Bloor Street West, 10th Floor,
Toronto, Ontario, on Wednesday, June
27th, 1990, commencing at 9:00 a.m.

VOLUME 221

BEFORE:

MRS. ANNE KOVEN
MR. ELIE MARTEL

Chairman
Member

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I N D E X O F P R O C E E D I N G S

<u>Witness:</u>	<u>Page No.</u>
<u>DALE MUNRO,</u>	
<u>MICHAEL R. INNES</u>	
<u>WAYNE DOUGLAS YOUNG,</u>	
<u>LEN SUOMU,</u>	
<u>RICHARD DEAN FRY, Resumed</u>	39994
Continued Cross-Examination by Mr. Lindgren	39994
Cross-examination by Ms. Kleer	40062

1 ---Upon commencing at 9:00 a.m.

2 MADAM CHAIR: Please be seated.

3 Mr. Lindgren.

4 MR. LINDGREN: Good morning, Madam Chair.

5 WAYNE DOUGLAS YOUNG,
6 LEN SUOMU,
7 DALE MUNRO,
8 RICHARD DEAN FRY,
9 MICHAEL R. INNES, Resumed

10 CONTINUED CROSS-EXAMINATION BY MR. LINDGREN:

11 Q. Mr. Munro, if I could, I would like
12 to return to the --

13 MR. MARTEL: Could we get one thing
14 cleared up because I have a concern.

15 MR. LINDGREN: Certainly.

16 MR. MARTEL: In the documentation that
17 you would have for values, would you document and put
18 in it in the supplementary information, or do you just
19 want to document what you consider the true values of
20 areas of concern?

21 MR. MUNRO: That was a concern that we
22 expressed yesterday, Mr. Martel, and in particular are
23 you referring to the guidelines, et cetera, and how
24 values would be identified and documented?

25 MR. MARTEL: Yes, the documentation at
the end, would that be in the supplementary information
or...?

1 MR. MUNRO: Actually it occurs in a
2 number of places and if I could just take take you
3 through the boards right here and I will show you where
4 that documentation does occur.

5 This will be specific reference to
6 guidelines and their applications. The first step
7 during the first year is that the Ministry with their
8 technical experts would review though guidelines with
9 the regional committee and they would say: Here are
10 the guideline we have been using, these guidelines are
11 scientifically based, there is an element of
12 environmental assessment built in and they do reflect
13 what society wants. So that's a given. That's what we
14 start with.

15 Then the district managers take those
16 guidelines and he applies them to his or her specific
17 district and the management unit that's going to be --
18 the plan developed for. Part of his analysis is to
19 determine if those guidelines are in fact applicable to
20 that management unit or should they be revised in some
21 fashion, okay.

22 If he identifies a problem in issue with
23 a particular guideline that was coming down through a
24 provincial and regional format he has had to identify
25 it, he has to develop a strategy to deal with that

1 specific problem and issue. If it is a problem with
2 the guideline that has to be identified and highlighted
3 up front. He takes that problem and issue and his
4 proposed strategy to the advisory committee for their
5 input. So the advisory committee knows that the
6 guidelines came from a provincial basis, is being
7 reviewed at a regional basis and the district manager
8 is trying to use that guideline and identify any
9 specific problems and issues and they provide their
10 input.

11 To this point in time there has been no
12 operations planned; we are simply getting the
13 background information in place and allowing the public
14 to review the guideline in the sense of what how it is
15 going to be applied.

16 At this stage here, the public has the
17 opportunity to identify their values and how the plan
18 author and Ministry of Natural Resources put together
19 that values map that we referred to yesterday. We
20 don't have a sample of that values map with us, but it
21 would be very similar to what MNR provided you and
22 very -- at a relatively small scale with all the values
23 for the entire management unit highlighted.

24 So once that is done and the general
25 public -- the advisory committee, not the general

1 public, the advisory committee has identified their
2 values, more or less bought off on the idea that we are
3 going to use guidelines and there will be a range of
4 acceptable practices, then we provide an executive
5 summary to the general public.

6 MR. MARTEL: Can you stop there.

7 MR. MUNRO: Okay.

8 MR. MARTEL: Once you have identified the
9 local values--

10 MR. MUNRO: Right.

11 MR. MARTEL: --do you put together any
12 documentation with respect to those values, or is it
13 just on the map itself and the fact that the guidelines
14 will be applicable?

15 MR. MUNRO: It is on the map itself and
16 it is referred to in the integrated resource database.
17 Here is the value, here is where it came from and it is
18 documented. In some cases there will be a file as to
19 who identified the value and that will be part of the
20 supplementary documentation, okay, and be highlighted
21 in the executive summary as such, okay.

22 So now we have -- and to this point no
23 planning has taken place. Values have been identified,
24 guidelines have been reviewed. So after the general
25 public has an opportunity to identify their values, the

1 values map could be revised or update to reflect their
2 values. The integrated resource database would be
3 upgraded or changed to reflect the new values that have
4 come in and any comments they had towards application
5 of the guidelines.

6 All those concerns are highlighted by the
7 district manager and the plan author and they're taken
8 back to the integrated resource user committee which is
9 the point where we start. They have an opportunity to
10 review all the comments to date on those particular
11 guidelines and identify any concerns that they have.
12 So, therefore, we have completed the entire circle.

13 After one year, we have not planned any
14 activities, we have simply laid the format so that the
15 plan author can take that and use that as his direction
16 or her direction to plan the activities.

17 Once that is done, the plan author takes
18 the guidelines and the values, the summaries that were
19 prepared, which highlight those values and where they
20 can be found, and he goes to the people that identified
21 the value and he has to contact those people and he
22 works with those people and those people could be
23 interested individuals or they could be technical
24 experts; i.e., a biologist or a resource person as
25 such, it could be a tourist operator who has a value.

1 The plan author has to work with that individual to
2 plan the activity.

3 So an example would be a tourist operator
4 comes in and, as Mr. Fry indicated, he has an outpost
5 camp. He would work out how jointly you could use the
6 guidelines to plan that activity, and that would be
7 identified on that detailed map, okay. That's not to
8 say that that's approved at that time, it's simply the
9 combined effort of the interested individual and the
10 plan author to try to put a proposal together and how
11 planned activities are going to be based. That would
12 be clearly identified on the map down below that Mr.
13 Fry indicated to you.

14 Once that is done, the planned activity
15 is presented to the advisory committee and the plan
16 author has to walk through the maps, identify the
17 value, identify what guideline was used, the interested
18 public or the advisory committee at that time can say:
19 Okay, tell me why did you use that guideline or why did
20 you select that preferred course of action, thereby the
21 plan author would have to explain it or the district
22 manager if it was applicable to his particular
23 executive summary.

24 Once that is done and the advisory
25 committee have the opportunity to provide input and

1 identify their concerns, the plan author must address
2 that, prepare an executive summary highlighting their
3 concerns and take it to the general public -- I'm
4 sorry, highlights the concerns and then that's given to
5 MNR and they have the opportunity to look at those
6 concerns, look at the planned activity as per the map
7 and identify any of their concerns in terms of that
8 planned activity; maybe it could be that they have a
9 technical problem with an application of the guideline
10 as it relates to a specific value.

11 They would identify that, that could come
12 back as a required alteration, okay. So the list of
13 required alterations pertaining to guidelines, the map
14 and all the public concern to date is taken back to the
15 public at this point here. So the general public has
16 the opportunity through an information centre to talk
17 to the plan author, talk to the technical experts that
18 will be available at that information centre and raise
19 concerns in terms of a specific guideline or the
20 protection of a value or identify new values.

21 As soon as that concern is raised, the
22 Industry's proposal has an enhanced planning proposal
23 built into it where if you have a concern regarding a
24 value, documentation starts immediately and
25 documentation would include four components; you would

1 first look at the alternatives, you would analyse those
2 alternatives, you would provide some mitigative
3 measures on how you could protect the value in actual
4 operations and you would provide the rationale for the
5 preferred selection.

6 That process that I just described would
7 be much similar to what MNR is recommending under their
8 AOC package, almost identical. So in that way if the
9 individual has a concern, immediately you have to start
10 looking at those four components and working through
11 that with the individual to ensure that he or she
12 agrees with that decision and if they do, the plan is
13 changed; and if they don't, they can raise it with the
14 district manager, the plan author can put forth some
15 proposed solutions, the individual with the concern
16 could put forth proposed solutions, then the district
17 manager ultimately makes the decision on what goes in
18 the plan.

19 If either party, the plan author or the
20 company that he works for -- or in this case it could
21 be the Ministry because I think approximately 60 per
22 cent of the plans that are prepared are prepared by the
23 Ministry and about 40 per cent are prepared by the
24 Industry. So in some cases it could be the Ministry
25 who says: We don't like that or the party could say we

1 don't like the final solution and the avenue of bump-up
2 is available. That's really how we see guidelines and
3 values treated.

4 A lot of back and forth, a lot of
5 dialogue, a lot of discussion and it is key that the
6 people that raise the concern are the people that the
7 plan author deal with and we think our process allows
8 for that.

9 Does that help?

10 MADAM CHAIR: I think another part of Mr.
11 Martel's question was with respect to the documentation
12 exactly. Is there any documentation not found in your
13 integrated resource database, supplementary
14 documentation to the timber management plan that the
15 MNR doesn't have available now?

16 We understand that information wouldn't
17 be in an executive summary for the public, but it is
18 there if the public wishes to access it.

19 MR. MUNRO: It is there it and it's
20 completely available. If somebody has a concern with
21 regards to a value, let's say a fisheries concern, and
22 they want to know how the rationale for that planned
23 action or planned activity was presented, the first
24 thing that we would probably do is send them a copy of
25 the fishery guidelines and say: Here are the

1 guidelines that we used and if you have any questions
2 after that point, come and talk to us and we will try
3 and work it out.

4 MADAM CHAIR: When the Ministry of
5 Natural Resources refers to their supplementary
6 documentation to the timber management plan--

7 MR. MUNRO: Right.

8 MADAM CHAIR: --is yours called the
9 integrated resource database?

10 MR. MUNRO: No.

11 MADAM CHAIR: That's where you get the
12 information from?

13 MR. MUNRO: That's where we get the
14 detail.

15 MADAM CHAIR: Yes.

16 MR. MUNRO: And the executive summary of
17 the detail. We also have supplementary documentation.

18 MADAM CHAIR: And you are calling it
19 supplementary documentation?

20 MR. MUNRO: We are calling it that, which
21 would include all the public participation, a summary
22 of public participation, the three executive summaries,
23 an executive summary of the plan as such, all areas
24 where there was a deviation from a guideline would be
25 in the supplementary documentation and where there is a

1 deviation we would go through the same four key
2 elements of looking at alternatives, analysing it,
3 putting together some mitigative measures, justifying the
4 final decision.

5 That's done where there is a deviation
6 from the a guideline. Where there is no guideline, the
7 same thing is done and it's all documented and it's all
8 included as part of the supplementary documentation.

9 Where the enhanced planning process
10 occurs where individuals have a concern at the draft
11 plan stage is also documented, the alternatives are
12 looked at, analysed, mitigative measures are sought and
13 the rationale for the selection is also documented.

14 So quite a complete --

15 MR. MARTEL: So basically everything that
16 you document is the same sort of documentation that MNR
17 presently is?

18 MR. MUNRO: It is, Mr. Martel, up to the
19 point where we wouldn't document on a piece of paper
20 the rationale for the preferred selection. That would
21 be shown on a map.

22 Now, if people have a problem or a
23 concern with the planned activity and the application
24 of the guidelines, then that would be documented. And
25 we feel that that would solve a lot of our problems in

1 terms of making a plan that's simple and concise for
2 the public to understand, that doesn't have reams of
3 paper in it which they are not interested in, but
4 identifies and highlights where their interests are and
5 where we are going to spend our time and effort trying
6 to solve some of their concerns.

7 So we're not saying that there would be
8 any less documentation, in fact at the draft plan stage
9 somebody comes in and says: We don't like how you
10 protected any of our values, we would suggest that all
11 of those values would be upped to the enhanced planning
12 process -- bumped up or be elevated to the enhanced
13 planning process. That's a highly unlikely thing to
14 occur.

15 What we are trying to do is get the
16 process where we are dealing with real concerns and
17 spend our time and effort on those real concerns.
18 Where it is routine applications of the guidelines and
19 individuals, whether they're technical experts,
20 advisory committees or the general public don't have a
21 concern, let's not spend a whole lot of time filling
22 out paper. Is that a better explanation?

23 MR. MARTEL: Is a record kept of it,
24 though? I think that the fear that people will have is
25 that somewhere along the line, doing it via this route,

1 you won't have the sort of documentation that MNR has
2 and people would be concerned that: Oh, oh, without
3 that documentation in fact that can get by us.

4 MR. MUNRO: And I can relate to that. My
5 response would be: Tell us what your concern is, we
6 can't address perceived problems. If the general
7 public or a technical expert has a concern, tell us
8 what it is. Documentation will start immediately.

9 I'm not sure how you can take care of the
10 people that have a perception but aren't willing to
11 participate in the process. If they are willing to
12 participate, we are more than willing to document what
13 has happened and what will happen in the plan.

14 Anymore questions?

15 MADAM CHAIR: Thank you, Mr. Munro.

16 MR. LINDGREN: Q. Mr. Munro, I have
17 several questions about that issue. In your evidence
18 you've attempted to distinguish between non-timber
19 values in general and what you have called true areas
20 of concern. Can you tell me what you mean by true
21 areas of concern?

22 MR. MUNRO: A. True area of concern,
23 Madam Chair and Mr. Martel, would be where an
24 individual expresses a concern about a planned activity
25 in the draft plan, is a true area of concern.

1 Q. So a non-timber value only becomes a
2 true area of concern and the enhanced planning process
3 only kicks in when somebody raises a concern?

4 A. That is, in fact, correct under our
5 proposal. That doesn't mean that it doesn't receive
6 the status of a recognized value and that operations
7 are not planned to protect it. It is a recognized
8 value as a non-timber value and is dealt with through
9 the planning process and adequately protected through
10 the application of guidelines.

11 Where people feel they will not
12 adequately be protected, they have the opportunity to
13 raise that concern and work with the plan author, the
14 district manager to a solution to that particular
15 concern.

16 Q. Suppose we had a heron rookery that
17 has been identified by Industry or the Ministry of
18 Natural Resources, if I understand your proposal
19 correctly, the enhanced planning process will only kick
20 in, the documentation requirements will only kick in if
21 someone raised a concern about that rookery?

22 A. No, I wouldn't agree with that. We
23 do have a heron rookery shown on this map.

24 Q. Please put the map up, please.

25 A. So if the Industry identifies a heron

1 rookery, what we are proposing we would do is
2 immediately when that's identified the guidelines have
3 to be used and the guidelines afford, I believe we
4 talked about it yesterday in the sense of other birds,
5 that there is a zone of no activity.

6 That zone of no activity would be
7 identified and highlighted on a map. There is a
8 modified zone where there is limited activity or
9 restricted activity through the breeding season. That
10 would also be identified.

11 As Mr. Fry has indicated, heronry, no
12 harvest within 300 meters of the nest and has
13 highlighted that on the map. That to me is
14 documentation.

15 He has also highlighted heronry, no heavy
16 development within a thousand meters of the nest
17 between April 15th and August 1st. That, again, is
18 documentation in my mind.

19 Q. Stopping right there, Mr. Munro. On
20 the map do we see any expression of the rationale as to
21 why a particular prescription was selected?

22 A. No, and the reason we don't show the
23 rationale is that -- for one reason, just dealing with
24 heron rookeries, there is, this is what you have to do.
25 You know, there is little or no option dealing with

1 heron rookeries. You have a no-cut reserve placed
2 around the nest, you have a no heavy development zone,
3 that is the prescription that's in the guideline. You
4 can go to the guideline, but there is no another
5 option.

6 If in fact, as Mr. Fry has indicated, you
7 are planning on deviating from that guideline, which he
8 has indicates in this portion of the map right here and
9 he went through and led evidence why that was so, this
10 would be highlighted on the map, be highlighted in the
11 plan, documentation would be found in the plan, the
12 supplementary documentation, and the four components
13 that I went through earlier this morning would have
14 been addressed.

15 Alternatives would have been looked at
16 and now some of those alternatives would be considered,
17 mitigative measures would have been put in place and,
18 to your question, there would have been complete
19 documentation on the justification for the preferred
20 selection.

21 Q. Mr. Munro, suppose we turn to a
22 guideline that provides the range of options that Mr.
23 Young was speaking about. Let's imagine we have a
24 guideline that confers some discretion on the plan
25 author in terms of the prescription, where on the map

1 are we going to find any documentation of the rationale
2 for that prescription, any documentation of the
3 environmental impacts of that prescription or its
4 alternatives or any documentation of the proposed
5 monitoring that might be necessary?

6 A. Could I use an example of the
7 guidelines--

8 Q. Please do.

9 A. --would that be appropriate?

10 Let's take, for instance, the fisheries
11 guidelines, and I do have a copy here, and the
12 fisheries guidelines are basically summarized in two
13 pages. Mr. Young, you have a copy.

14 We will just run through the fisheries
15 guidelines in respect to what Mr. Fry has summarized.
16 I am not sure if the fisheries guidelines have been
17 filed as yet, Madam Chair.

18 MADAM CHAIR: Yes, they have.

19 MR. MUNRO: Oh, yes. Exhibit 303.

20 MADAM CHAIR: Mr. Munro, could you put
21 Exhibit 1276 -- is the number on there and I can't see
22 it?

23 MR. MUNRO: Yes, 1276.

24 MADAM CHAIR: Oh, it is.

25 MR. MUNRO: Yes. Timber Management

1 Guidelines for the Protection of Fish Habitat summary,
2 it is one table. The plan author in conjunction with
3 the individual that expressed the concern would have
4 these at their disposal.

5 If you go through -- and I believe this
6 is identified as a brook trout fisheries. You would go
7 to the guidelines and it has brook trout fisheries. It
8 is a stream so it would be cold water streams and warm
9 water streams, clearly identified. It has
10 documentation in terms of slope, 0 to 15, 16 to 30, 31
11 to 45, 45 to 60, with each slope definition the width
12 of the area of concern is identified very clearly
13 within the guideline.

14 So the plan author sits down with the
15 individual or the technical expert that is going to
16 deal with this and develops a prescription. The
17 prescription that Mr. Fry has indicated here is no
18 tertiary roads permitted within the reserve between
19 points A and B, which are these two points here.
20 (indicating)

21 A and B is identified as slope dependent
22 reserve as shown, which would be using these
23 guidelines, and it is a 50-meter reserve from this
24 point to this point, a no-cut reserve, because I
25 believe Mr. Fry indicated that there could be a

1 potential spawning area, a 70-meter no cut as well.

2 The reason that the 50 and 70 are there
3 is because the slope changed. The reason that the no
4 cut is there is because of the potential spawning area.
5 Within the guidelines, it clearly indicates that those
6 are options that are available.

7 So if somebody comes in and has a concern
8 or has raised a concern, and we used the guidelines, if
9 somebody comes in and says: We don't think that
10 adequately protects those values, we start again. We
11 go: Here are the guidelines that we used, come let's
12 talk about it. If need be, let's go to the field and
13 look at it.

14 If we can't resolve it, the plan author
15 must put forth a solution, the party with the concern
16 must put forth a solution, the district manager must
17 develop a solution and advises the plan author to put
18 it in the plan. If that's still not good enough,
19 bump-up can be applied or a request for bump-up can be
20 filed by either party.

21 Q. On the issue of fishery habitat
22 guidelines, have you read Industry Panel 9A?

23 A. No, I haven't.

24 MR. COSMAN: I don't think we have the
25 transcript here.

1 MR. LINDGREN: Q. You haven't reviewed
2 the witness statement of Panel 9A?

3 MR. MUNRO: A. No, I haven't.

4 Q. Well, a whole issue of buffer zone
5 width under the Fish Habitat Guidelines were addressed
6 at some length by your witnesses in that panel and, in
7 fact, they have advocated moving beyond using slope as
8 a sole criteria in determining buffer width and in
9 fact -- and I am referring to Exhibit 1222 which is the
10 Panel 9A witness statement.

11 At page 14, Industry witnesses indicated
12 that in order to determine AOC width other factors such
13 as soil erodibility, stream gradient, aquatic resource
14 features, presence of critical habitats, presence of
15 sediment depositional areas and expected degree of
16 disturbance -- all those factors should be looked at in
17 order to determine the optimal width. They wanted to
18 move away from automatic 30, 60, 90 and they wanted it
19 variable depending on the site specific nature.

20 Now, if -- and I might add that a similar
21 comment was made on page 16 with respect to lakes.

22 I assume you, as an Industry witness, are
23 supporting that position?

24 A. Most definitely.

25 Q. Now, given that if that proposal is

1 accepted there will be a great deal of discretion on
2 the part of the plan author to select the width of a
3 buffer in any particular lake or stream, where are we
4 going to find the documentation for the rationale,
5 where are we going to find an analysis of the
6 environmental impacts, where are we going to find the
7 proposed monitoring?

8 A. All good questions, and what would
9 happen is the guidelines would need to be revised.
10 They would be sent up to a technical committee, a
11 provincial technical committee, there would be --
12 professionals from all disciplines would review the
13 propose revision, they would make a recommendation
14 based upon scientific knowledge that the guidelines
15 should be revised.

16 If the guidelines are revised, the Deputy
17 Minister has available to him the option of taking them
18 to our senior policy committee for their review as
19 well. Thereby, one, we have scientific base; two, we
20 have some type of environmental analysis carried out by
21 that professional technical committee at a provincial
22 basis and it provides a range based upon environmental
23 impact and there is the opportunity for public review,
24 if need be, thereby reflecting society's goals at that
25 time.

1 Q. Mr. Munro, I am not concerned at this
2 point about the revision of the guidelines, I am more
3 concerned about their application.

4 Presumably if the guidelines are revised
5 in the manner that you've suggested, the plan author
6 will have a discretion to impose a buffer zone of 0 to
7 120 metres. Where are we going to find the
8 documentation or the rationale of a particular
9 prescription for a particular stream?

10 A. Are you suggesting that we now have
11 revised guidelines?

12 MR. COSMAN: Assuming.

13 MR. LINDGREN: Q. Assuming that they are
14 revised in the manner that you've suggested.

15 MR. MUNRO: A. Okay. Assuming that we
16 have revised guidelines that are, one, based upon
17 scientific knowledge, state-of-the-art scientific
18 knowledge, leading edge stuff, based upon that there
19 has been some consideration of an environmental
20 analysis to determine what a range of acceptable
21 practices would be based upon science and that there
22 has been a provision for a review of those guidelines
23 in terms of what society will accept at that time, plus
24 going back to the earlier process that I identified
25 this morning where we start off in year one taking

1 those hypothetical revised guidelines to a regional
2 committee and we work through the entire process.

3 We work through advisory committees, we
4 work through the general public, we work through the
5 plan author, we work through the technicals experts who
6 have those revised guidelines, who have to go out and
7 implement them, which have a range of acceptable
8 practices where appropriate.

9 Where it's not an appropriate solution or
10 protection for a value, there is no range, as you
11 pointed out with heron rookeries.

12 Q. And that's the rationale for the
13 Industry proposal that we will see only the scant
14 information on that base map with respect to the
15 rationale -- or actually the rationale doesn't even
16 appear on that base map, we will only see the
17 information that appears on that base map at the
18 information centre?

19 A. Any individual can come in, look at
20 the map or write in and say: We don't like how the
21 guidelines are being applied because we don't think
22 they protect the value, and we will work with that
23 individual and provide whatever documentation is
24 required, look at alternatives, analyse alternatives,
25 put together mitigative measures and justify the

1 preferred...

2 Anybody can come in and raise a concern;
3 it can be anybody off the street, it can be a technical
4 expert. We are obligated to deal with those interested
5 individuals in our process.

6 Q. Mr. Munro, is a non-timber value
7 inherently more valuable when somebody raises a concern
8 about it?

9 A. Is not a timber value...

10 Q. Is a non-timber value inherently more
11 valuable when somebody walks in off the street and
12 raises a concern about it?

13 A. I would -- it's not anymore valuable,
14 but what we have provided for is a process of enhanced
15 planning where there could be additional consideration
16 and documentation of both a range of alternatives and
17 analysis of the alternatives.

18 Q. Given that a non-timber value is not
19 more inherently valuable than a value for which some
20 public concern has been expressed, why are you
21 proposing that the environmental analysis be limited to
22 those situations where a concern has been raised?

23 A. The reason the Industry is proposing
24 that it not necessarily be limited, that there has
25 been -- an environmental analysis takes place by

1 scientific and professional people, as the guideline
2 was hypothetically revised, that is the basis.

3 And we are saying, if individuals out
4 there know something that we don't, know something that
5 is appropriate, we will deal with it. You know,
6 identify your concern right up front. We don't have
7 all the solutions, you know. I would readily admit to
8 that. We just don't have all the solutions.

9 Other individuals can come in and they
10 can raise the concerns and we will work with those
11 individuals and we will develop solutions. If we can't
12 come to an agreement, the ultimate responsibility for
13 developing a proposed prescription rests with the
14 Ministry of Natural Resources, not with the plan
15 author.

16 Q. Mr. Munro, the question was, in
17 situations where no one has walked in off the street
18 and raised a concern, we are talking about a non-timber
19 value that exists in the forest somewhere--

20 A. Okay.

21 Q. --why are you proposing that an
22 environmental analysis not be done?

23 A. Can I ask you a question?

24 Q. Could you answer it? I wish you
25 would.

1 A. Has that non-timber value been
2 identified?

3 Q. Has it been identified? Yes, it has
4 been identified.

5 A. So in the hypothetical case that we
6 are dealing with the non-timber value has been
7 identified?

8 Q. Yes.

9 A. It is shown on a values map and it is
10 summarized in a greater resource database, there is
11 complete files available as to who identified it, where
12 it is, what the particular value was, it is put on a
13 map.

14 If there hypothetically is no guidelines
15 available to address that particular value,
16 documentation begins immediately. We look at the
17 alternatives, analyse those alternatives, put together
18 mitigative measures, justify why you did -- or provide
19 the rationale of why you selected the preferred the
20 option and then all that is included in the
21 supplementary documentation available to anybody.

22 Now, taking your question one step
23 further, what happens if nobody comes in and raises a
24 concern regarding the protection of the value, I would
25 suggest, how do we know that, and if somebody does

1 could come in and raises a concern, we are obligated to
2 deal directly with them and start that documentation
3 process immediately.

4 Q. Mr. Munro, in your evidence you have
5 attempted to distinguish between two types of public
6 interests; you indicated there was local public
7 interest in terms of what is going to happen, when and
8 where and you have indicated there is a second type of
9 public interest in the form of groups or individuals
10 who are more interested in the technical issues and
11 they are more interested in understanding the
12 substantive basis behind the decision making.

13 When they look at a map like that -- when
14 the latter individuals look at a map like that, where
15 are they going to find an analysis of the prescription
16 that has been prescribed for a particular stream or any
17 other non-timber value?

18 A. What we are saying in our proposal is
19 that those interested parties, be they provincial,
20 regional or district, would identify that concern, the
21 enhanced planning process would automatically kick in
22 and then exactly what you are asking for in terms of
23 rationale, the rationale why they selected -- or the
24 preferred alternative was selected would be there and
25 provided.

1 If individuals do not agree with that,
2 the process is there where the district manager has to
3 make the decision on the proposed solution, he has to
4 document that decision, he has to go through the same
5 type of consideration of the alternatives, analysis of
6 those alternatives, mitigative, preventative measures
7 must be considered and he has to provide the rationale
8 for the preferred selection.

9 That's with anybody that comes in and has
10 a concern, whether they be an interested party, a group
11 of individuals, an individual or a technical expert.

12 Q. I wasn't raising the individual -- I
13 wasn't raising the example of an individual who comes
14 in and raises a concern, I'm talking about an
15 individual or a public interest organization that wants
16 to come in and just understand why a prescription was
17 selected in a particular situation, and the plan
18 author -- if I understand your proposal correctly, the
19 plan author would have produced no formal documentation
20 other than what we see on that base map?

21 A. To that point in time and I would --

22 Q. To that point in time.

23 A. Madam Chair, Mr. Martel, what we are
24 saying is that would occur at the draft plan stage, not
25 at the final plan stage.

1 There is still a considerable amount of
2 time available to the plan author to put together the
3 final plan using the enhanced planning process with the
4 participations of those interest groups, if need be, if
5 they have identified a specific concern, to develop a
6 final plan that recognizes their value, puts together a
7 proposed planned activity in conjunction with them that
8 is well documented, and that alternatives are
9 considered and the four steps that I have been going
10 through.

11 That would occur between when the draft
12 plan was presented and when the final plan is there for
13 MNR review.

14 Q. Are you telling me, Mr. Munro, that
15 when we have a final plan that's ready to be submitted
16 to the Ministry of Natural Resources there will be in
17 fact documentation of the rationale for every
18 prescription that has been prescribed by the plan
19 author and not only that, an analysis of the
20 environmental impacts of the prescription and its
21 alternatives?

22 A. What we are saying in our proposal is
23 that in every case where an individual has raised a
24 concern regarding a planned activity in the draft plan,
25 there will be complete and thorough justification for

1 the final selection.

2 Q. Only for --

3 A. Where there is a deviation from a
4 guideline, there will be complete justification and
5 rationale for the selection of the preferred
6 prescription.

7 Where there is a deviation from a
8 guideline, there will be complete and thorough
9 justification on why the preferred alternative was
10 selected. That is what I am saying.

11 Q. So where there are guidelines in
12 existence to deal with a particular non-timber value,
13 we will only see documentation of the rationale for the
14 prescription and an analysis of the environmental
15 impacts and its alternatives when someone raises a
16 concern?

17 A. I would not agree with that in the
18 sense that earlier this morning I went through the
19 entire process where those guidelines and the range of
20 acceptable practices are reviewed through the entire
21 two years that we are putting this plan together by
22 numerous parties and interest groups.

23 They're reviewed by regional committees,
24 they're reviewed by citizen committees, they're
25 reviewed by the general public, they're reviewed by

1 technical experts. That, in my mind, is rationale for
2 a utilization of the guidelines, not necessarily the
3 preferred alternative, but that review, yes, that is
4 indeed an acceptable range of alternatives.

5 If somebody has a problem with the
6 acceptable range of alternatives, they can raise a
7 concern and at that time point we have to deal with
8 that, we have to deal with those people that raised the
9 concern.

10 MR. MARTEL: Let's look at it a different
11 way. If a person just doesn't raise a concern, just
12 identifies a value, they think there is something
13 there, I am not going to raise a concern about it or do
14 anything like that, just identify it, what happens
15 then? He is not coming in or trying to develop --
16 would would occur in that scenario?

17 MR. MUNRO: What would occur in that
18 instance is an individual would say: I have a value,
19 I'm not really interested in what you do, I want to let
20 you know I have that value, that value would be
21 verified by MNR, it would be considered and if it is a
22 recognized value it is put on the values map. If there
23 is a guideline in place we apply the guideline.

24 If the individual comes in and has a
25 concern, then we go through the enhanced planning

1 process. If he doesn't come back and we don't have a
2 guideline, then we have to start complete and thorough
3 documentation.

4 MR. MARTEL: You still have to
5 document --

6 MR. MUNRO: We still have to document it
7 if there is not a guideline. If there is a guideline
8 we apply the guideline.

9 If the individual comes back and has a
10 concern, we work through it with that individual,
11 through the entire process documenting everything. At
12 that point in time he can come into the district and
13 look at those values map.

14 That values map is not fixed in time. We
15 are recommending in our T and Cs that the individual
16 can take it home and have it at his or her disposal at
17 any time and talk about that at any time. That's an
18 important part. The values map is not fixed in time.
19 It is constantly updated to reflect new information.

20 If an individual comes in and expresses a
21 concern or value -- identifies a new value, there is
22 the amendment process available where the plan author
23 or the Ministry or the party who identified the value
24 could initiate an amendment to the plan. The whole
25 amendment process follows the identical process that we

1 laid out. It is a complete planning process that has
2 been applied.

3 MR. LINDGREN: Q. Mr. Munro, if I
4 understand your evidence correctly, you are proposing
5 the enhanced planning process because it is too
6 onerous to expect Industry to fully document the
7 rationale and the environmental impacts of every
8 prescription related to every non-timber value that
9 might be out there?

10 MR. MUNRO: A. What we are saying is the
11 best place for the documentation of the proposed
12 planned activity in the draft plan is on a map similar
13 to this. It is the best communication tool that's
14 available to one for the dialogue between the
15 individuals that have the concern, interested
16 individuals and the plan author. This in our mind is
17 the best tool that's available. It's drafted,
18 everything is there.

19 If it is not, in terms of complete
20 documentation, and an individual wants to know, then
21 okay, fine, you have these guidelines, the guidelines
22 will be made available, discussions will be initiated
23 as to how those guidelines were applied and the
24 individual will be dealt with one on one on a ongoing
25 basis until the final plan is produced.

1 Q. Is that more efficient in terms of
2 time, resources and effort than - producing all that
3 information on rationale and environmental impacts -
4 putting it into tabular form or even a one-page
5 document?

6 A. In our mind it is considerably more
7 efficient in that a number of values where the
8 guidelines are applied routinely, we have found through
9 the production of some 30 plans, that people generally
10 accept the application of the guidelines, are quite
11 willing to have a professional, whether it be a
12 biologist or a forester, exert some professional
13 judgment on the application of those guidelines and are
14 not really interested in all that paper.

15 What they are interested in is what's
16 going to happen, how is it going to affect me and how
17 do I get involved and how do my concerns get addressed,
18 and we think we provided a process for that.

19 Q. Is Industry advocating that Table
20 4.12 of the Timber Management Planning Manual be
21 abolished?

22 A. I would have to just check. Madam
23 Chair, if you could turn to page 106 you will find what
24 the Industry -- what we have on page 106, Table 5, is a
25 summary of the values that have elevated to the

1 enhanced planning process. This is highlighted in the
2 plan and there is also documentation included in the
3 supplementary documentation.

4 We were asked an interrogatory dealing
5 with how we would identify it, and if I could turn the
6 Board to MNR interrogatory No. 41.

7 MR. COSMAN: I'm afraid that's one of the
8 ones that is out of order, Madam Chair. It is just
9 before that audit schedule that we marked, a page
10 before that:

11 MR. MUNRO: MNR in question 41 identified
12 a similar concern to what Mr. Lindgren has expressed.

13 MR. COSMAN: Mr. Munro, wait one second.

14 MADAM CHAIR: I will find it in a minute,
15 Mr. Munro. Yes.

16 MR. MUNRO: Very good. Thank you. MNR
17 identified a similar concern in terms of how we would
18 provide rationale for the selection of the preferred
19 option.

20 What we ended up doing, and I don't think
21 there is any need to go through the answer, but one is
22 that we do have an enhanced planning process where in
23 our initial proposal we had a table identifying all
24 values that were elevated. What we have added to the
25 initial proposal is Table 5B, which is approximately

1 three pages towards the end.

2 Can you find it, Mr. Martel?

3 MR. MARTEL: Five.

4 MR. MUNRO: It should be three pages
5 towards the back of that document.

6 MR. LINDGREN: Mr. Martel, I believe he
7 is referring to the interrogatory document.

8 MADAM CHAIR: Mr. Munro.

9 MR. MUNRO: What we ended up doing is
10 modifying our original proposal and including a Table
11 5B. Table 5B is a summary of values where there is a
12 proposed deviation from the guideline and where there
13 is no guideline available to protect the value.

14 So what we have is complete and thorough
15 documentation where there is an enhanced planning
16 process, and that is highlighted in the plan in Table
17 5, and where there is a deviation from a proposed --
18 from a guideline and where there is no guidelines
19 available to protect a value.

20 We believe that by providing those two
21 tables that in all cases where people want to know or
22 raise concerns, that complete and thorough
23 documentation would start at that time. If they do not
24 -- if a concern is not raised, one can only assume that
25 the application of the guidelines that are

1 scientifically based and that have gone through the
2 public review process and have been reviewed by
3 numerous people at the regional, district and the
4 general populous, that there is general acceptance of
5 those range of acceptable practices simply because
6 nobody has identified any concerns.

7 By doing that, we believe that, one, we
8 will have a more understandable, more concise plan, we
9 will have a better communication tool; i.e., the
10 detailed map that we have provided, and we will have an
11 increased level of understanding by the public on what
12 the entire process is and how values are protected,
13 simply because we will not have a lot of documentation
14 which they are not really interested in and this in a
15 sense is getting to the point where you can focus on
16 your concern.

17 MR. LINDGREN: Q. So, Mr. Munro,
18 returning to Table 4.12 of the Timber Management
19 Planning Manual as it exists now, as I understand it,
20 Table 4.12 contains a description of the prescriptions
21 for all areas of concern, your Table 5 and 5B contains
22 only a description of the prescriptions that have been
23 developed under the enhanced planning process?

24 MR. MUNRO: A. As well as where there is
25 no guidelines, as well as where there has been a

1 deviation from the guideline and the enhanced planning
2 process does include the complete documentation where
3 any individual, technical expert, interested party,
4 advisory committee have identified a concern regarding
5 the application of guidelines that have been
6 scientifically reviewed and have gone through a
7 rigorous review in terms of how they are being applied
8 in the planning process, and we think that is quite --
9 a good approach to use in that it does allow the plan
10 author to -- and the Ministry of Natural Resources who
11 do have limited resources in terms of technical
12 experts, to really concentrate on those areas where
13 individuals have concerns.

14 Where there are no concerns expressed
15 regarding a planned activity, it is assumed that the
16 guidelines are acceptable and that the general populous
17 and the advisory committees do recognize that they are
18 appropriate and applicable to that particular
19 management unit.

20 Q. Well, Mr. Munro, I have a couple of
21 final questions on this issue and we will have to move
22 on.

23 On the issue of documentation, yesterday
24 you indicated that there was in fact over-documentation
25 now required under the existing planning process. On

1 that point, can I refer to refer you to Exhibit 893
2 which includes samples of the area of concern planning
3 records that have been prepared with respect to the Red
4 Lake Crown Management Unit.

5 As I recall the evidence, Mr. Munro, this
6 was described as an attempt to have a one-page
7 standardized form outlining the prescription, its
8 alternatives and the environmental impacts, a one-page
9 document. Does this type of document -- is this the
10 kind of documentation that Industry would consider
11 onerous to complete for non-timber prescriptions?

12 A. Madam Chair and Mr. Martel, the
13 document that you have in front of you, Exhibit 893,
14 I'm very familiar with it, as well Mr. Suomu is very
15 familiar with it and we were instrumental in putting it
16 together. This is a combined effort of Boise Cascade
17 and CP Forest Products during the preparation of our
18 last TMPs. Red Lake District subsequently adopted it
19 after that time.

20 It is a one-page documentation for each
21 value. It was considered a requirement at that time
22 and is still a requirement under the current process.
23 This is the exact documentation that I referred to when
24 I said the public does not look at it.

25 We have approximately -- when I

1 supervised the preparation of our last TMPs I think we
2 had 900 pages of this. That in my mind is excessive
3 documentation. We had a complete binder of one-page
4 summaries for each value of concern and in many cases
5 it was a redundant, excessive exercise in the sense
6 that we did produce maps similar to this and really all
7 where we were doing was taking the information that was
8 on the map, putting it on this page, taking the summary
9 of guidelines and putting it on this page.

10 As you can see by the first AOC, No. 30,
11 the Fish Habitat Guidelines were applied, operations --
12 the question is: Can timber management operations be
13 carried out while protecting identified values under
14 questions. The answer is no. The prescription is
15 simply written down on this piece of paper identical to
16 what's written down on that map.

17 Q. Mr. Munro, there is also a lot of
18 blank spaces on this page, spaces that were intended to
19 be filled out with respect to the alternatives,
20 mitigation, monitoring and so on. We don't find any of
21 that information on your base map; do we?

22 In fact, we don't even find an
23 identification of the Fish Habitat Guidelines as a
24 source for your cold water prescription?

25 A. Madam Chair, the reason that you

1 don't -- the reason why there is blanks here is that
2 there is really no alternatives. Timber management
3 operations cannot proceed and the answer is no. That's
4 why these pages are blank and that's why there wouldn't
5 be any further explanation on the map; there is just no
6 alternative.

7 If we can turn to AOC No. 31, which is
8 the next AOC that's been put before you, the fisheries
9 habitat guidelines were applied, as indicated, the
10 question is: Can timber management operations be
11 carried out while protecting identified values, and the
12 answer is yes.

13 The value is identified as water quality
14 and, as you probably are aware, the fisheries habitat
15 guidelines are the guidelines that are used to protect
16 water quality. If I was to go to the fisheries habitat
17 guidelines I would find those alternatives listed in
18 the guidelines, they are no different, it is slope
19 dependent, there is a 30-meter, alternative B, shape
20 cut to the shoreline.

21 In fact, with the exception of spelling
22 out the V shape, that alternative is identified in the
23 guidelines in the sense that they identify there could
24 be some restriction placed on site preparation, in this
25 case I don't believe that was done, and they also

1 indicate that there should only be a portion of the
2 reserve cut at one time and that is in fact what is
3 indicated on this piece of paper.

4 What would show up on the map is the
5 preferred planned activity and it would be one of these
6 three alternatives which, again, are shown in the
7 guidelines. If an individual came in and expressed a
8 concern about the preferred application -- the
9 preferred operation and the application of the
10 guideline, then Mr. Lindgren is certainly correct,
11 complete and thorough documentation would begin
12 immediately and that's how we have designed it in our
13 process.

14 MR. MARTEL: Let's back up a bit then.
15 You said there were 900 AOCs, that's for the entire
16 unit?

17 MR. MUNRO: I supervised the preparation
18 of two plans, so that would be for the Pakwash Forest
19 and the Patricia Forest. I've never counted them, but
20 people tell me that it's somewhere between -- around
21 900.

22 MR. MARTEL: Over the next 20, 30, 40
23 years - maybe you can't tell me this - would the number
24 of AOCs increase significantly, they are identified, or
25 is it going to remain, after you've identified many of

1 them at the beginning, fairly constant? I mean, give
2 or take.

3 MR. MUNRO: This is really my best guess.
4 I would suggest to you, Mr. Martel, that the number of
5 values will increase over time and constantly increase
6 over time because as people become more involved in the
7 process they tend to identify new values. You have to
8 take into account that the values map is for the entire
9 management unit, therefore, values will be placed on it
10 wherever they are occur within that management unit.

11 So, yes, I would think the values would
12 increase and what we are trying to do is focus on those
13 values where people have concerns and apply the
14 guidelines as routine business for the other ones that
15 they have expressed no concern over.

16 MR. MARTEL: I guess what I was looking
17 at was the potential for building up an inventory so
18 that you wouldn't have to go back through this over and
19 over and over again, but rather systematically add so
20 that you in fact don't have to repeat it.

21 I mean, I think people find some comfort
22 in seeing this written down, quite frankly, and I don't
23 know if it's possible to build up an inventory so that
24 you don't have to review it every time, you don't have
25 to go back to it over and over and flip through it and

1 fill it out a second and a third time and a fourth
2 time, but in fact all you would do is add to your
3 inventory so that in fact we have this, we add this
4 many, so that we are not going to renew it all for
5 every plan, but it is somewhere documented and if
6 someone really wants it it is there and possible for
7 them to go to. That might provide more comfort to the
8 public.

9 MR. MUNRO: You raise a very important
10 part in terms of comfort. The reason that, it is my
11 belief anyway, the public would like to see it - I
12 really have no evidence that they would like to see it
13 written down - is that the guidelines are a relatively
14 new concept.

15 As we work with those guidelines and
16 interested individuals I think they will become
17 considerably more comfortable that the guidelines are
18 applicable, and where they are not applicable they have
19 the opportunity to express that concern and that there
20 is alternatives considered after that time.

21 So I think it's really an educational
22 process and that's both for us and for the public, you
23 know, and we have gone through this exercise of the
24 paper, one page documentation, and we truly do believe
25 there is a better way of doing business in a more

1 effective fashion.

2 MR. FRY: If I could add to that, Mr.
3 Martel, your question about are the AOCs going to
4 increase in number. What you are looking at here, in
5 the AOCs that you are looking at here are what apply in
6 this particular plan.

7 Presumably this area is going to be
8 harvested and will no longer be eligible for allocation
9 until some time in the future when the stands come back
10 in the next rotation and it is ready for harvest, but
11 then we will go over here in the next plan or up in
12 here in the next plan and we go through the same
13 exercise here as one would go through here and there
14 would be a completely different set of values that will
15 apply in this particular section of the map.

16 (indicating)

17 MR. MARTEL: I think that's why, though,
18 I started it by raising the question based on the whole
19 area as opposed to -- I knew that some would come forth
20 as you moved to each new area with your annual work
21 schedule and so on and the five-year plan.

22 I was just looking at the possibility of
23 building up this inventory, you wouldn't have to repeat
24 it, and how much work that would involve if you didn't
25 have to go back except anything new that was

1 identified.

2 MR. MUNRO: We do see the values map, Mr.
3 Martel--

4 MR. MARTEL: As that.

5 MR. MUNRO: --as a building of inventory
6 and we do see the values map having associated
7 documentation with it available in the district office
8 or whatever source.

9 So in that way I guess we are trying to
10 address your concern about having to go back and start
11 all over from the beginning again, and we really do see
12 it as an add-on process as new values are identified
13 and put on the values map and that values map will have
14 some reference to the documentation in the district
15 files and that documentation will be completely
16 available and open to the public.

17 So if you do have a concern as to how
18 your value was addressed, I think it is there.

19 MR. LINDGREN: Q. Mr. Munro, our concern
20 about this issue stems from our desire to see
21 accountability and traceability in the system.
22 Shouldn't the reasoning behind a non-timber
23 prescription be traceable by the public and by
24 government reviewers regardless of whether a specific
25 concern has been raised?

1 MR. MUNRO: A. Madam Chair, I would say
2 it is traceable in the fact that there is -- there are
3 guidelines available to protect values and that they
4 are available to the public, as well as any interest
5 group that wants to review those guidelines. They do
6 have the opportunity in our process to comment on those
7 guidelines and identify their concerns.

8 I think that's traceability in the sense
9 that you tell us what your concerns are and we will
10 work with you and put forth the documentation. That's
11 my view of traceability. You have a constant problem
12 when you are dealing with this type of thing.

13 If you want, as Mr. Lindgren is referring
14 to, complete documentation for every value, you run the
15 risk of making the plan so complex that nobody wants to
16 become involved or feels intimidated by it, and what we
17 are trying to do is put forth a proposal that cuts down
18 on some of the documentation where there is just
19 routine application of guidelines and where those
20 guidelines are basically accepted by society, and if
21 they are not they can raise concerns, and that way make
22 the planning process more understandable and more
23 participative, working directly with individuals.

24 In the recent plans that I've prepared or
25 supervised the preparation of, Pakwash and the Patricia

1 Forest, we were somewhat amazed at the level of public
2 participation in terms of going and dealing directly
3 with the individual and it really works.

4 Mr. Suomu can probably provide some more
5 insight, but talking to individuals on a local level
6 who have a value to protect and working towards a
7 planned activity, in my mind, is the best way to carry
8 out planning.

9 Q. Mr. Munro, let's look finally at the
10 information that the Industry is willing to provide
11 about a particular prescription. I will look again at
12 the brook trout fishery.

13 "Slope dependent reserve as shown..."
14 and there's an indication that:

15 "...brook trout spawning area, no
16 tertiary roads permitted within reserves
17 between points A and B..." and that's
18 it. You don't see anything -- there is no reference to
19 the Fish Habitat Guidelines, we don't even know the
20 source of the prescription, there is nothing on
21 alternatives, there is nothing for both mitigation or
22 monitoring. That's it, that's the sum and substance of
23 the information a person looking at that particular
24 prescription will have.

25 Is that traceability and accountability

1 in your view?

2 A. Madam Chair, that is not all the
3 information that the Industry is willing to provide.
4 If any individual has a concern, we are more than
5 willing to work with that individual who has raised a
6 concern with the routine application of the guidelines
7 and at that point complete documentation starts.

8 It could be that this form, Exhibit 893,
9 is in fact the form that is used and I would suggest
10 that perhaps there will be considerably more
11 documentation than one particular form for a value.
12 There would be substantial documentation in terms of
13 what alternatives were considered, what the analysis of
14 those alternatives were, what mitigative/preventative
15 measures were recommended and the rationale for the
16 selection of the preferred option. It would be
17 considerably more complete than what we have in front
18 of us.

19 Q. Mr. Munro, that would only can kick,
20 those documentation requirements would only kick in if
21 somebody raised a concern or if there is a deviation or
22 if there is no guideline?

23 A. That is correct.

24 Q. Okay, thank you. Mr. Young, perhaps
25 we can move quickly to access planning. Can I ask you

1 to turn to page 34 of the witness statement. In the
2 middle of page 34 we see what the Industry is proposing
3 in terms of the analysis that should be required for
4 access road planning.

5 Would you agree with me, Mr. Young, that
6 this would appear to be more of an operational analysis
7 than an environmental impact analysis?

8 MR. YOUNG: A. Madam Chair and Mr.
9 Martel, on page 34 we have outlined the analysis that
10 we would do for the alternative road corridors that we
11 propose for all primary access and secondary access
12 within an area containing a recognized value.

13 The points that we would consider in our
14 analysis is how effective is our alternative in
15 providing access to the operations, we would outline
16 how the values would be accommodated, again, this is
17 where we would again indicate that the guidelines would
18 be utilized to protect the value and very similar to
19 operations that Mr. Munro just finished explaining, we
20 would utilize the guidelines to protect the value.

21 We would also provide an estimate of cost
22 where those costs would be applicable, and we addressed
23 that yesterday, and we would also provide a use
24 strategy for -- as part of the analysis. Those are the
25 four points that we would consider in the analysis.

1 Very, very similar to what Mr. Munro
2 explained where the Industry deviates from the use of
3 guidelines and planning access, where there are no
4 guidelines available in planning access to protect the
5 value or where the public, individual parties, advisory
6 committees, have a concern, we would invoke the
7 enhanced planning process.

8 As Mr. Munro outlined, any one of those
9 points, no guidelines, deviation from guidelines and a
10 concern, we would go into a complete analysis and
11 documentation of analysis, and that analysis would
12 include the consideration of alternatives, the analysis
13 of those alternatives, the prevention and mitigative
14 measures to either protect or enhance that value and
15 the rationale of the preferred alternative. So it's
16 very similar to what Mr. Munro explained this morning.

17 Q. Perhaps it's all too similar.

18 MR. COSMAN: Save the comments.

19 MR. LINDGREN: Q. If I understand you
20 correctly, then, that kind of environmental analysis
21 will not occur at first instance, it's only if there is
22 going to be a deviation or there is no guideline or
23 there is a concern?

24 MR. YOUNG: A. As I pointed out, there
25 is analysis, we have indicated that there is a

1 four-point analysis, that is very similar -- actually,
2 identical to what the Ministry of Natural Resources is
3 proposing in their evidence and, as we stated, where
4 there is a deviation, no guideline available or there
5 is a legitimate concern, we will do a complete
6 environmental analysis, if you want to use the word,
7 including consideration of alternatives, mitigative
8 measures, analysis of those alternatives and selection
9 and documentation of the rationale for that selection.

10 Q. Thank you. Could I ask you to look
11 at item C of that analysis, an estimate of cost. I
12 take it that's not a formal cost/benefit analysis; is
13 it?

14 A. No, it is not and as if you read
15 further, it is where it's applicable. As I gave
16 evidence yesterday, where the cost factor is one of the
17 determinations in consideration of analysis, we would
18 provide that.

19 Madam Chair and Mr. Martel, if road A and
20 B are the options and there is no substantial cost
21 differentiation, we would not provide that, but where
22 there is substantial cost differential between
23 alternative A, B or C, or as many as we provide, we
24 will provide the estimate of construction,
25 transportation costs and road maintenance costs.

1 Q. I think in your evidence, Mr. Young,
2 you indicated that in your view road costs should be
3 internal and not disclosed. Do you recall giving that
4 evidence?

5 A. I believe I gave evidence somewhat to
6 that effect, that there is some really costs that could
7 jeopardize some of our competitive nature in the
8 Industry and I think we gave you evidence of that in
9 previous panels.

10 Q. And that's true even where the FMA
11 holder, for example, might be receiving a road payment
12 subsidy from the Ministry of Natural Resources?

13 A. As I stated, we would provide those
14 costs very clearly where those costs are applicable in
15 determination of the alternatives.

16 Q. Now, you have indicated that you will
17 reveal costs only if the cost aspect is a determining
18 factor, and I think the example that you used related
19 to a cost advantage -- or disadvantage of four times --
20 or a difference of four times?

21 A. I don't think I used the word four
22 times, but...

23 Q. Well, that's what my notes indicate.
24 In any event, can you provide us with any examples
25 where costs would be a factor and costs would not be a

1 factor? I am asking for actual examples, not a
2 hypothetical.

3 A. Madam Chair, there is no specific
4 examples that come to mind. I could give hypothetical
5 answers or examples that I could think of, but none
6 come to mind.

7 Q. You can't think of an example where a
8 cost has been a factor?

9 A. Not offhand. I would say, if we were
10 proposing to two road alternatives and one of those
11 road alternatives involved going around, say, a lake,
12 either the left-hand or right-hand side of the lake and
13 there is a substantial bridge crossing on the right
14 hand versus the left-hand side, that's the type of
15 factor that would have to be included.

16 There may be a substantial bridge on one
17 alternative versus another, terrain conditions would be
18 different for each road alternative, there may be a
19 requirement to do blasting or that type of operation
20 and that could affect the cost of the road. So those
21 are some examples that I would suggest.

22 Q. Thank you. Mr. Munro, if I could ask
23 you to turn to page 37.

24 MADAM CHAIR: Should we have a break now,
25 Mr. Lindgren?

1 MR. LINDGREN: Certainly. I am very
2 close to finishing.

3 MADAM CHAIR: All right. We will be back
4 in 20 minutes. Thank you.

5 ---Recess taken at 10:23 a.m.

6 ---On resuming at 10:50 a.m.

7 MADAM CHAIR: Please be seated.

8 MR. LINDGREN: Q. Mr. Munro, at the
9 break I had referred you to page 37 of the witness
10 statement and in paragraph (d) we see an indication
11 that:

12 "If it is decided that operations will
13 proceed, even though protection of the
14 identified value may not be ensured,
15 justification of that decision must be
16 documented."

17 Does that mean even though the non-timber
18 value may be at risk and it may not be adequately
19 protected operations can still be carried out?

20 MR. MUNRO: A. If I could refer, Madam
21 Chair and Mr. Martel, to MOE interrogatory No. 22.
22 Section (d) that Mr. Lindgren is referring to should
23 say the following:

24 "If it is decided that operations should
25 proceed..." instead of will proceed,

1 simply because we are dealing with a draft plan at this
2 point and the "should" is to allow the public advisory
3 committees to have input into a proposed draft plan.

4 At that point, this is what we would
5 refer to as deviation from the guidelines and they
6 would be highlighted in the plan in Table 5B, as I
7 indicate earlier, and that was a table that we had
8 added to our evidence as a result of an interrogatory
9 asked by MNR.

10 So it would be well documented that, yes,
11 there is a plan deviation and there would be complete
12 and thorough justification for a selection of the
13 preferred option provided in that -- provided in the
14 supplementary documentation.

15 So to answer Mr. Lindgren's question: Is
16 it our recommendation that they will proceed, I guess
17 the answer is no, it still goes through public review,
18 there still is a consideration of alternatives, an
19 analysis of those alternatives, mitigative and
20 preventive practices are prescribed and the rationale
21 for the selection of the preferred alternatives are
22 completely documented.

23 Q. In interrogatory 22 you use the
24 example relating to a preferred road location. Can you
25 give me an example of a preferred harvest option and

1 can you indicate what kind of justification is
2 contemplated when you say that complete documentation
3 will be required?

4 A. If I could refer the Board to the
5 map. As Mr. Fry pointed out, this heronry and the
6 modified zone, there is in fact a deviation from the
7 guideline identified on the map. I would assume that
8 as part of the supplementary documentation there would
9 be an explanation of the alternatives considered.

10 As Mr. Fry pointed out, the reason that
11 there is a deviation is because of the prescribed burn
12 that was planned. So if you would -- part of the
13 supplementary documentation would include initiation
14 terms of -- I would assume it would be the fire people
15 that would come to the plan author and go: Well, we
16 are proposing a prescribed burn in there. Immediately
17 documentation would start and alternatives would be
18 looked at.

19 I guess one of the alternatives that they
20 would obviously look at is not carrying out the
21 prescribed burn, but in reality what happened was they
22 looked at several alternatives and they came up with a
23 prescription that's identified on the map, that has:

24 "Prescribe burning permitted after July
25 15th, but only with a southeast or west

1 wind."

2 That would part of the supplementary
3 documentation as well, and the alternatives would have
4 been considered at that time, the null, don't do
5 anything, keep the outer zone of heavy development in
6 tact, apply the guidelines. The deviation that is
7 highlighted in the supplementary documentation would
8 include all that's necessary in order to justify the
9 selection of the preferred. That would be one example
10 that I could think of.

11 Q. Well, if I could refer you to the
12 last line of the answer to question No. 22, it is
13 indicated that:

14 "If, as a result of public consultation
15 and review of the draft plan, an area of
16 concern is identified regarding this
17 decision, the enhanced planning process
18 is automatically put in place."

19 So does that mean where we have a
20 non-timber value that may be not be adequately
21 protected, the enhanced planning process does not
22 automatically kick in until somebody raise a concern?

23 Q. At this point in the planning
24 exercise we are dealing with the draft plan, so it
25 would be unfair to say there is a value that's not

1 adequately protected.

2 What you would have to do or what would
3 have to happen is an individual, interested party would
4 have to identify a concern, he didn't think the
5 application of the guideline is going to properly
6 protect the value and in that case that would be
7 identified and complete and thorough documentation
8 would result.

9 The only way we can get a response from
10 the public is to show them the planned activity and
11 have them comment.

12 Q. So public concern would trigger the
13 enhanced planning process and analysis that is carried
14 with that?

15 A. For the enhanced planning process,
16 and we mentioned the other two components of that where
17 they would be complete documentation.

18 That's not to say that where there is no
19 concern expressed that the plan author has the given
20 right to apply whatever range of acceptable practices
21 that is available. You must remember that the district
22 manager must sign the plan and part of that signature
23 of the plan is agreeing that the guidelines have been
24 used, applied in an appropriate fashion.

25 It would not be appropriate to suggest

1 that an individual plan author can make a decision of
2 what - to put it in simple terms - what range, whether
3 it was a high or low range they consistently operated
4 at. That decision as to the planned activity is
5 definitely reviewed by the district manager and the
6 technical experts, so it is not the plan author.

7 In many cases what we are proposing is
8 consistent to all management units and in about 60 per
9 cent of the cases those plans are prepared by Crown
10 foresters, so it's not just industrial forest that will
11 be making that decision. The planned activities are
12 planned in conjunction with other people and not
13 isolated and the plan isn't produced solely by the plan
14 author and it is approved by the district manager.

15 MR. MARTEL: Who can stop the
16 construction?

17 MR. MUNRO: Definitely.

18 MR. LINDGREN: Q. Mr. Suomu, if I could
19 turn briefly to you on the issue of bump-up. Can I ask
20 you, sir, if you have had any experience with the
21 bump-up provisions in other class environmental
22 assessment documents other than the one before this
23 Board?

24 MR. SUOMU: A. No, I have not.

25 Q. Have you read any other class

1 environmental assessments?

2 A. I've read the class environmental
3 assessment for forest access roads to --

4 Q. Okay. And in fact that has been
5 entered as an exhibit in this hearing. It has been
6 marked as Exhibit 886.

7 And if are you familiar with this
8 document, then you will know that at page 18 of that
9 document they discuss bump-up. There is a discussion
10 of bump-up and the authors suggest that there are two
11 circumstances when bump-up to individual environmental
12 assessment would be desirable.

13 MADAM CHAIR: Mr. Lindgren, what page?

14 MR. LINDGREN: It is page 18.

15 MADAM CHAIR: Of which exhibit?

16 MR. LINDGREN: Of the Class EA for access
17 roads. It is Exhibit 886. I am not sure it is
18 necessary to have it, in any event.

19 Q. The circumstances set out in this
20 document are twofold; where there is public controversy
21 and where there is significant environmental impacts
22 associated with the undertaking.

23 Now, Mr. Suomu, FFT has proposed those
24 two factors as bump-up criteria. Would you have any
25 difficulty if this Board recommended or imposed those

1 two factors as bump-up criteria?

2 MR. COSMAN: Excuse me, Madam Chair,
3 there is a legal aspect to this. The decision on
4 whether there should be a bump-up is a decision for the
5 Ministry of the Environment and I realize what my
6 friend is saying, but is he suggesting that as a legal
7 matter the Ministry of the Environment, whenever those
8 two criteria are present, he wants this Board to say
9 the Ministry of the Environment must grant a request
10 for bump-up?

11 MR. LINDGREN: No, I am suggesting that
12 if this Board, through whatever vehicle, recommends or
13 imposes that bump-up -- or those bump-up criteria in
14 this approved Class EA, if it is approved, would
15 Industry have difficulty with that.

16 MR. SUOMU: As I noted in the evidence,
17 bump-up is a major concern to the Industry in any forms
18 of a bump-up request. Roads are just one of the many
19 items which could be considered for a bump-up. We
20 don't close the door on any bump-up request within our
21 process, not automatically including bump-up before
22 we've had the opportunity to address these concerns
23 within the process.

24 Our process basically is designed to
25 ensure that if there is public controversy and in fact

1 we deal with the public concerned over that particular
2 issue, if it is not resolved through the process to the
3 final plan, then bump-up is an avenue to which that
4 non-resolution can be carried.

5 MR. LINDGREN: Q. My question was:
6 Would Industry have any difficulty if the criteria of
7 public controversy and the criteria of significant
8 environmental impacts were imposed or recommended or
9 used as bump-up criteria?

10 MR. COSMAN: I can tell my friend legally
11 it's our view that, no, this Board should not attempt
12 to impose any criteria on the minister. Those criteria
13 may be used by the Minister of the Environment, other
14 criteria may be used.

15 Our position I think is quite clear, that
16 the minister has the right to exercise that, but this
17 Board should not impose anything. That's the position
18 of Industry.

19 MR. LINDGREN: And I can advise the Board
20 that FFT will be taking a contrary position.

21 Q. But whatever decision the Board
22 ultimately makes, I am asking Mr. Suomu if the Board
23 finds that it has jurisdiction to either recommend or
24 impose those two bump-up criteria, would Industry have
25 any difficulty with that?

1 MR. SUOMU: A. Yes, we would. Bump-up,
2 as I say, is a fairly major concern with the Industry
3 and these particular requirements, we are assuming
4 there is controversy. Our process in fact is designed
5 to check that level of controversy and perhaps reduce
6 it through the process. If it's not resolved, then
7 again it can carry on through. So bump-up is still a
8 final avenue. It is within our proposal.

9 Q. If I understand your proposal, your
10 position is that the bump-up request can be made at any
11 time during the planning process, but the Minister of
12 the Environment should only make its decision once the
13 process has resulted in a final timber management plan;
14 is that correct?

15 A. That is our recommendation. We can't
16 tell the Minister of the Environment what he can do,
17 but this is a proposal to allow for a period in which
18 that concern can be handled within the process.

19 We are attempting in this proposal to
20 allow maximum avenue to address concerns and if
21 concerns involve more involved analysis, then it can be
22 become a part of the process without having to go
23 through bump-up. If in fact that enhanced planning
24 process does not resolve the issue, then again this is
25 the final avenue.

1 Q. Isn't the danger in your
2 recommendation that the Industry would then be in a
3 position to say to the Minister of the Environment:
4 Look, we have been working on this thing for the last
5 three years, we have done everything that we were
6 required to do and now we are ready to proceed,
7 therefore, deny the bump-up request?

8 Isn't that likely to occur under your
9 proposal?

10 A. No, I would say it would be highly
11 unlikely. Having gone through the process, there is a
12 lot of advance -- advance notice and if a concern comes
13 up early in the planning process and is not resolved or
14 we are having difficulty in its resolution, then
15 alternate prescriptions can be initiated within the
16 planning process early in the game and operations could
17 proceed even with the bump-up request at the end.

18 Q. If a bump-up request occurs early in
19 the process, I take it that the Industry position is,
20 it is too early to make a bump-up decision, let's work
21 it out? There is nothing to bump-up essentially?

22 A. That is correct, yes.

23 Q. And if the bump-up request comes late
24 in the process, Industry's position would likely be,
25 you should have raised this earlier, we have done

1 everything we have to do, let's get on with it, deny
2 the bump-up request? Isn't that likely to occur?

3 A. I can't answer that unless I know the
4 nature of the bump-up and the circumstances.

5 Q. When a bump-up request has been
6 submitted, we have heard that it is likely that the
7 Ministry of Natural Resources will be taking a position
8 as to whether or not the bump-up request should be
9 granted.

10 Will Industry be making submissions as to
11 whether or not the bump-up request should be granted?

12 A. Again, it all depends on the
13 circumstance and the timing of the request.

14 Q. But it is possible that in certain
15 circumstances you will be taking a position on that
16 issue?

17 A. In certain circumstances, yes.

18 Q. Can you advise me what circumstances
19 will Industry be prepared to accept a bump-up request
20 once a plan has been completed?

21 A. I would suggest that under our
22 process if a concern has been brought up early or
23 during the planning process, prior -- during the draft
24 plan stage and prior to the final plan preparation,
25 we've had a chance to meet with all of the parties, we

1 have exhausted all the avenues and still have not
2 reached a final resolution, then I think it's
3 Industry's view that at that point in time, if we have
4 no other avenues with which to pursue, then bump-up is
5 a legitimate avenue.

6 Q. And once the plan is completed?

7 A. In terms of...

8 Q. Once the plan is complete. Not
9 necessarily approved, but once it has been completed by
10 Industry, you are telling me that Industry would be
11 prepared to support a bump-up request in certain
12 circumstances?

13 A. If in fact we've dealt with it in the
14 process. I would assume at that point that is our
15 final proposal and we've taken -- you know, we have a
16 final prescription on the particular item, then again
17 bump-up could be a legitimate avenue.

18 Q. Would it be a legitimate avenue if
19 there are significant environmental impacts or issues
20 that have not been resolved to the satisfaction of the
21 requester?

22 A. Again, with the -- under our process,
23 the Ministry of Natural Resources also has an
24 opportunity to review the stand of both sides, and I
25 suggest that in that sense if no resolution has in fact

1 been made then -- and all sides have had an opportunity
2 for full input, then yes, it is a legitimate avenue.

3 Q. And bump-up should be granted?

4 A. I can't speak for the Ministry of the
5 Environment, if it should be processed.

6 MR. LINDGREN: Madam Chair, subject to
7 further questions on the one outstanding undertaking
8 those are our questions.

9 MADAM CHAIR: Thank you, Mr. Lindgren.

10 One question about bump-up, Mr. Suomu.
11 Has it been the experience in your company that you
12 would have had many requests for bump-up, or is it your
13 view that in most situations where there has been
14 dispute about how to resolve a particular concern that
15 in fact there are ways of solving this?

16 MR. SUOMU: Under the majority of cases,
17 Madam Chair, I would suggest that close contact with
18 the parties involved and working together would resolve
19 most of the issues, the majority of them.

20 I'm not saying that there would never be
21 a bump-up request, but I would say that under the
22 process that we propose that it would be extremely -- I
23 would say not unlikely, but very few bump-up requests
24 would in fact reach that stage.

25 MR. INNES: Madam Chair, if I could

1 advise. It is my understanding there is something like
2 12 requests for bump-up that have now gone into the
3 timber management planning process, and perhaps Mr.
4 Freidin has the exact number at his disposal, but there
5 are a number out there now, as I understand it.

6 MADAM CHAIR: Thank you.

7 Ms. Kleer?

8 MS. KLEER: Good morning Madam Chair,
9 good morning Mr. Martel.

10 I was asked to give a few jokes, but I
11 really don't know any jokes, so I thought I would leave
12 it open to the floor if anybody wanted to raise any.
13 Mark?

14 CROSS-EXAMINATION BY MS. KLEER:

15 Q. All right. My first questions will
16 be addressed generally to the panel members, but I will
17 begin with you, Mr. Innes.

18 The Industry it putting forward an
19 integrated management planning process; is that
20 correct?

21 MR. INNES: A. We have a specific title
22 for it, Ms. Kleer, I believe, which is on the page
23 before the table of contents which is an integrated
24 resource plan system for timber management.

25 Q. But is it a planning process?

1 A. Yes, it is.

2 Q. All right. Are you a professional
3 planner?

4 A. I am professional forester. I have
5 prepared timber management plans. I would not call
6 myself a professional planner and I do not belong to
7 the Institute of Professional Planners or a body such
8 as that.

9 MR. COSMAN: The witnesses have been
10 tendered, Madam Chair, as experts in timber management
11 planning, they are not planners in any other sense.

12 MS. KLEER: Q. All right. Then has
13 anyone -- or, Mr. Innes, perhaps you could answer this.
14 Have you been qualified to give planning evidence?

15 MR. COSMAN: Yes, that's why he is here.

16 MS. KLEER: All right.

17 Q. Mr. Innes, do you have any expertise
18 in the development of public consultation mechanisms?
19 Have you ever done such an exercise before?

20 MR. INNES: A. In the development of...

21 Q. Of a public consultation mechanism.

22 A. No, I have not any professional
23 expertise in that field.

24 Q. Mr. Fry?

25 MR. FRY: A. No, I have not.

1 Q. Mr. Munro?

2 MR. MUNRO: A. In the development...

3 Q. Of a public consultation mechanism.

4 Other than in this process, have you ever developed a
5 public consultation mechanism for any other area of
6 resource planning?

7 MR. MUNRO: A. Other than timber
8 management planning?

9 Q. Yes.

10 A. No.

11 Q. Mr. Suomu?

12 MR. SUOMU: A. No.

13 Q. And Mr. Young?

14 MR. YOUNG: A. No.

15 Q. Did the Industry consult any planners
16 in the preparation of this witness statement, Mr.
17 Innes?

18 MR. COSMAN: Are you talking about timber
19 management planning?

20 MS. KLEER: No, I am talk about
21 professional planners.

22 MR. COSMAN: Well, there are professional
23 planners who are timber management planners or planners
24 who are land use planners. I just want to clear.

25 MS. KLEER: All right. I am talking

1 about professional planners who are engaged in timber
2 management planning.

3 Q. Have you consulted any such people in
4 the preparation of this witness statement?

5 MR. INNES: A. You are speaking, Ms.
6 Kleer, above and beyond those who are foresters who are
7 engaged in the preparation of plans?

8 Q. That's correct. I am looking for
9 whether or not a professional planner who, for
10 instance, would belong to the Canadian Institute of
11 Planners?

12 A. No, I did not consult any such
13 person.

14 Q. Could you speak for the Industry as
15 to whether anyone in the preparation of this witness
16 statement consulted such a professional planner?

17 A. I cannot speak generally for
18 Industry, no.

19 Q. Well, then, I guess I will address
20 that same question to each of the board members.

21 Mr. Fry, did you consult a professional
22 planner in the area of timber management planning in
23 the course of preparing your portion of this witness
24 statement?

25 MR. FRY: A. I guess I am having trouble

1 understanding just what a professional planner is. Can
2 you give a definition of that?

3 Q. Well, for the sake of the -- for
4 simplification, a planner would have planning training
5 and they would also be a member of -- in all likelihood
6 they would be a member of the Canadian Institute of
7 Planners or the Ontario chapter of that, the Ontario
8 Professional Planners Institute.

9 A. If that is the definition of
10 professional planner, then I did not consult with
11 anyone in that respect.

12 However, using professional planner in a
13 broader context of one who prepares plans as part of
14 his professional responsibilities then, yes, we did
15 consult other parties within the Industry in this
16 respect.

17 Q. All right. Mr. Munro?

18 MR. MUNRO: A. I would respond similar
19 to Mr. Fry in the sense that if consultation with
20 professional planners would include actively
21 participating in a planning process that was designed
22 by, as Ms. Kleer indicates, a professional planner, I
23 would have to respond yes, that we have participated
24 within the process that clearly outlines that public
25 consultation process that has been developed and

1 evolved over time specifically for timber management.

2 So I'm a little unclear as to whether
3 Mrs. Kleer is suggesting that somebody that is
4 certified as a urban planner is more qualified to deal
5 with public consultation within the timber management
6 process than people that actively participate in that
7 process.

8 In that light, I would say yes, we have
9 consulted professional expertise on public consultation
10 for timber management planning.

11 Q. Would you agree with me that there is
12 a difference between doing on the ground timber
13 management planning and understanding the principles
14 that lie behind developing a plan for public
15 consultation or, more broadly speaking, for management
16 of a resource?

17 A. I would say if you are planning for
18 field implementation, then it is essential that you
19 understand planning as a process. And I think as
20 professional planners with timber management we do
21 understand that and are qualified to produce timber
22 management plans that will subsequently be implemented
23 at a field level.

24 Q. Mr. Munro, just to clarify. Are you
25 saying that you are a professional planner in timber

1 management planning in the sense that you have
2 described?

3 A. We have been been qualified as that,
4 yes.

5 MS. KLEER: Is that what they have been
6 qualified as?

7 MR. COSMAN: Yes, they are certainly not
8 urban planner, we can see that, and not members of the
9 planning institute.

10 As foresters working in and having an
11 incredible amount of experience, both these individuals
12 and the people they consulted with throughout the 84
13 companies that make up the association to put together
14 this process, that is timber management planning in
15 that sense and on that basis their evidence is being
16 tendered.

17 MR. MARTEL: Does such a profession
18 exist? Let's find out if there are such an animal as a
19 professional planner involved in forestry and forest
20 activities.

21 MS. KLEER: I would suggest that that
22 question be asked of Mr. Innes.

23 MR. MARTEL: Let me start with Mr. Innes,
24 then.

25 MR. INNES: Mr. Martel, I think an animal

1 does exist in terms of there are --

2 MR. MARTEL: No, but registered and -- I
3 think what Ms. Kleer is trying to get at is there a
4 category of this, that you in fact could go out and
5 solicit assistance?

6 MR. INNES: There are two possible
7 answers to the question. No. 1 is, I'm not aware of
8 any category of forest planners in which I could get
9 registered forest planner after my name by belonging to
10 this institute or whatever it may be. I'm not aware of
11 any such thing.

12 However, the second answer, which is more
13 germane in my estimation, is that there is a core of
14 subjects which must be studied before you are credited
15 as a professional forester of which planning is a very
16 definite part of that and land use planning obviously
17 falls within that, as does forest management planning,
18 because nothing happens in a forest without long-term
19 planning and it is an integral part of the professional
20 training in that.

21 MR. MUNRO: Just to add to that, Mr.
22 Martel. There is -- institutes are available and there
23 are many planners that do belong to it and there are
24 also planners that don't belong to it.

25 So it is not quite the same as being a

1 registered professional forester in order to supervise
2 the preparation of a plan, you must be a registered
3 professional forester. To do a land use plan, you
4 don't have to be registered as a planner as such, a
5 professional planner.

6 MR. MARTEL: I just want to know if that
7 discipline exists and--

8 MR. MUNRO: It does.

9 MR. MARTEL: --it doesn't seem to exist.

10 MR. MUNRO: It does.

11 MR. MARTEL: Oh, it does.

12 MR. COSMAN: It depends what discipline
13 we are talking about.

14 MR. MARTEL: I am talking about the
15 discipline of somebody being registered as a
16 professional planner by the profession who in fact
17 can --

18 MR. COSMAN: Registered forest planner?

19 MR. MARTEL: Yes.

20 MR. MUNRO: Registered forest planner
21 definitely doesn't exist.

22 MR. COSMAN: Does not?

23 MR. MARTEL: Does not?

24 MR. MUNRO: Does not exist.

25 MR. MARTEL: That's what I wanted to

1 know. Thank you.

2 MR. MUNRO: I'm not sure and maybe Ms.
3 Kleer can help us on this point. Is there such a thing
4 as a registered professional --

5 MR. COSMAN: Mr. Munro, you don't ask the
6 questions. We will hear from Ms. Kleer's witnesses in
7 due course.

8 MR. MUNRO: Thank you, Mr. Cosman.

9 MR. YOUNG: Madam Chair, I could offer
10 also. In my experience in preparing timber management
11 plans, I have had to deal with the Ministry of Natural
12 Resources staff that are classified as district
13 planners and regional planners and I have consulted
14 with them and dealt with them in preparation and
15 approval of plans.

16 I don't know if they belong to this
17 organization, but their title has been district
18 planners and regional planners.

19 MS. KLEER: Q. Would you agree -- I will
20 address this question to Mr. Innes.

21 Mr. Innes, would you agree that there are
22 different theories of planning and different theories
23 of planning models that a planner, such as Mr. Young
24 has described, would have studied extensively in the
25 course of their getting their designation as a planner?

1 Would you know that?

2 MR. INNES: A. I don't know that, Madam
3 Chair, no.

4 Q. One final question on this matter.

5 Mr. Innes, did the Industry consult any firms that have
6 expertise in the development of public consultation
7 mechanisms in the course of preparing this witness
8 statement?

9 A. I'm not aware, Madam Chair, that
10 Industry specifically went out and did that. I am
11 aware that some of the companies have employed these
12 types of people in the past, and in my particular case
13 I have utilized some of that expertise in the way some
14 of these things have been crafted in this presentation.

15 MADAM CHAIR: Ms. Kleer, I think the
16 Board has made their point a couple of times that we
17 haven't put a lot of weight on witnesses in terms of
18 their credentialism. We have made it perfectly clear
19 that we want experienced people in front of us who have
20 specific working experience with the issues that
21 concern us.

22 That's not to say that we don't want to
23 hear your arguments about various kinds of planning
24 systems that could or could not have been applied, but
25 I think the parties recognize after two years that the

1 sorts of credentials that we have been discussing
2 recently, certainly we accept that as something you
3 want to talk about but, at the same time, you have got
4 to know that the Board is not putting a lot of weight
5 on that sort of --

6 MS. KLEER: I appreciate that. My only
7 concern was to say that if in our case we can present
8 planning evidence, that the Board may want to consider
9 the fact that other members don't have specific
10 membership on an institute of planners such as the
11 Canadian Institute of Planners and that's my primary
12 concern.

13 MADAM CHAIR: Okay, thank you.

14 MR. COSMAN: We will argue that, too, in
15 due course, as to the weight.

16 MS. KLEER: We certainly will.

17 Q. I just have another few questions
18 that came out of your answers this morning, Mr. Munro.

19 First, a preliminary point. When I
20 looked at your evidence in your witness statement I did
21 not see that there was to be an executive summary of
22 the plan to be included in supplementary documentation,
23 but when I listened to you this morning I believe
24 that's what you said and I just wanted to clarify
25 whether that was so or not.

1 MR. MUNRO: A. Madam Chair, it is not
2 included as part of the supplementary documentation and
3 we didn't note it, but it is included as part of the
4 plan. It is not supplementary, it is the plan.

5 Q. And there is an executive summary
6 that precedes the plan proper?

7 A. That is the Industry proposal.

8 Q. And it could presumably be taken out
9 of the plan proper and just view it as a document on
10 its own?

11 A. That is certainly the intent.

12 Q. All right, thank you. Again, another
13 preliminary point. I believe that your evidence with
14 respect to supplementary documentation was that the
15 enhanced planning process will begin as soon as someone
16 raises a concern; is that correct?

17 A. No, that's not correct.
18 Supplementary documentation will occur if there is a
19 deviation from the guideline, if there is a value
20 that's identified where there is no guideline and
21 certainly where the public interest groups or technical
22 experts or district managers raise a concern.

23 Q. All right. So at least with
24 respect -- that is one of the points at which
25 supplementary documentation will begin; i.e., when a

1 person identifies a concern?

2 A. One of the three point, yes.

3 Q. All right. In developing the
4 supplementary documentation idea which the Industry is
5 putting forward, did you consider whether or not native
6 people who speak one of the primary native languages,
7 **Ojibway, Oji/Cree or Cree or who speak very little
8 English would have difficulty in coming forward to an
9 office where people speak English that's distant from
10 their home and to identify to an English speaking
11 person who speaks a very technical timber management
12 language?

13 Would they feel comfortable in doing
14 that? Is that something that could really happen in
15 the context of a native person who I've described to
16 you?

17 A. Madam Chair, Mr. Martel, we have --
18 I've personally have had some dealings with native
19 communities in terms of forest management planning --
20 or timber management planning and to comment on the
21 degree of comfort would be difficult for me to do.

22 We did go to visit individuals and the
23 chief and we actually went to the community and talked
24 about their concerns and we were quite successful, I
25 believe, in planning with those concerns in mind and in

1 most cases -- or, in fact, in all cases accommodated
2 their concerns.

3 In terms of comfort level, I can't
4 comment.

5 MADAM CHAIR: Did you go to the community
6 by invitation or at your own leisure?

7 MR. MUNRO: Actually what happened was a
8 notice --

9 MADAM CHAIR: Which community is this,
10 Mr. Munro?

11 MR. MUNRO: It would be Grassy Narrows,
12 which is north of Kenora.

13 MS. KLEER: Q. Is that, just for
14 clarification, a Treaty 3 community, as far as you
15 know?

16 MR. MUNRO: A. Yes. What happened, and
17 it is two years ago, so you have to bear with me. I
18 think what happened was was that **Mr. Forbisher, who
19 was the chief, had a meeting with Gord Pyzer, the
20 district manager in Kenora, and identified some
21 concerns.

22 Subsequently, I think Mr. Forbisher sent
23 in a delegate to talk to our people at our office and
24 then in due course Mr. Pyzer indicated that we should
25 go to the community, that Mr. Forbisher still had some

1 concerns and meet directly with the chief himself and
2 his councillors and present our proposals and have
3 them -- provide them the opportunity to comment.

4 In addition to that, I believe Mr.
5 Forbisher and a number of his counsels came into our
6 office and we had a meeting about allocations and how
7 we would allocate wood to accomodate some of their
8 needs, which was subsequently done and -- yes, and it
9 was done, and there was a third party issue to Grassy
10 Narrows for cutting wood in our limit, as a direct
11 result of going through the planning process.

12 So in that way I think we were quite
13 successful in dealing with some of their concerns that
14 they identified.

15 Q. Was the chief an English speaking
16 person?

17 A. Yes, he is.

18 Q. Were the councillors English
19 speaking?

20 A. I couldn't comment. The people that
21 we were dealing with were English speaking.

22 MADAM CHAIR: Mr. Munro, if you gave
23 cutting rights to a group such as this, would that area
24 be shown on the operating map in terms of being a value
25 or concern?

1 MR. MUNRO: Their concern was identified
2 and it was documented in the plan. It wasn't
3 highlighted on the maps simply because there is a
4 formal of legislative process that you have to go
5 through in order to get a third party agreement in
6 place.

7 There was a common understanding that
8 that would happen and, in fact, it did. So, no, it
9 wasn't identified as a third party arrangement, but
10 there was the intent, that it would go through that
11 process.

12 MS. KLEER: Q. Would that timber
13 allocation have been treated under your proposed
14 process as a value to be identified on the operating
15 maps?

16 MR. MUNRO: A. It was definitely treated
17 as a value and that's why we spent a considerable
18 amount of time working with the chief and his
19 councillors on isolating blocks that were in close
20 proximity to the reserve, and we isolated a number of
21 blocks. So in that sense I would say, yes, that was
22 identified as a value.

23 Q. And would it be identified as a value
24 in your proposed planning process?

25 A. In our proposed planning process, I

1 would suggest it definitely would be identified as a
2 value. Under the process that we prepared that plan
3 under, no, it wasn't identified on the values map, but
4 under our proposal it definitely would be a value
5 expressed by an interest group and -- well...

6 Q. Mr. Munro, you have given us an
7 example. The example that I gave you was of a person
8 who didn't speak English, who lived in a community
9 where they were generally isolated in that community
10 and didn't get out of that community a lot.

11 What I am proposing -- or what I am
12 asking is whether or not that type of person would feel
13 comfortable, as the chief did in your particular
14 instance, in coming forward and identifying a concern
15 because, as I understand it, in order for the
16 supplementary documentation to kick in they would have
17 to come forward and identify that value and I am
18 wondering whether or not that's something you
19 considered in developing your process?

20 A. It was definitely considered and
21 perhaps Mr. Innes could help me out. We have a term
22 and condition that addresses the public notices and I
23 believe it includes in native languages?

24 MR. INNES: Yes, it does.

25 MR. MUNRO: A. In my mind that would

1 start the process. And the other thing that would
2 certainly be considered, and in most cases is done, is
3 the native communities would have an information centre
4 and it has been at their request to date.

5 I would assume if there was an
6 information centre and there was an individual there
7 that had some difficulty understanding the proposals,
8 that there would be resource people available to ensure
9 that some dialogue occurs.

10 It is in our best interest as
11 professional forest -- timber management planners to
12 ensure that there is dialogue occurring on a regular
13 basis and whatever mechanism is available to do that
14 would be great.

15 Going back to my example of Grassy
16 Narrows, they do have a resource person that will
17 provide that dialogue, to ensure it takes place and
18 they have an economic development officer who, I think,
19 is quite qualified to bring their concerns forward and
20 they do have other resource people.

21 MR. MARTEL: Is it a native person?

22 MR. MUNRO: I don't know, Mr. Martel. He
23 was present at most of the meetings and I'm not sure.

24 MR. MARTEL: Does anyone ever employ the
25 use of a native translator to assist if that need be

1 the case?

2 MR. MUNRO: Our company hasn't and
3 simply -- and I think part of the reason, there hasn't
4 been a need identified to date. I am not sure if the
5 other panel members...

6 MR. SUOMU: Our company has not employed
7 one because there hasn't been a formal request or a
8 need for them.

9 MS. KLEER: Q. Would the Industry be
10 opposed to providing or making sure that the native
11 interpreter was available if one was needed and the
12 community itself did not have such a person, as you
13 have described, Mr. Munro?

14 MR. COSMAN: You mean at MNR expense or
15 Industry expense? You just want to make sure that it
16 is available.

17 MS. KLEER: Yes. I mean, I can't
18 designate how to do it.

19 MR. COSMAN: I don't know if I can let
20 these people make that commitment on behalf of Industry
21 other on that. It would certainly have to be
22 considered.

23 MS. KLEER: All right.

24 MR. INNES: Madam Chair, maybe I can
25 respond. The intent of the planning process is to have

1 public input and to have meaningful public input.

2 As a result, Ms. Kleer, we would be in
3 favour of having input where required if there was
4 translation difficulties. I think you would find
5 unanimous agreement amongst the group here that there
6 should be some provision for that and how far we take
7 it beyond that, I don't think we are prepared to go
8 that far.

9 MR. MUNRO: I would agree with that
10 absolutely. If it is needed and it helps produce
11 better plans that addresses values and concerns, by all
12 means.

13 MS. KLEER: Q. One further question on
14 this point. Would you agree, given this person that I
15 have described to you, that the better way to gain
16 input from such a person or from such a community of
17 persons would be to go to that community and solicit
18 from them information, rather than having them have to
19 come forward to an information centre or write the
20 Ministry or write the forest industry and say they have
21 a concern?

22 MR. MUNRO: A. Madam Chair, it is and it
23 has been a practice of some of our member companies to
24 go to the communities and hold an information centre.

25 We did not do that in my particular case,

1 we dealt directly with the Chief and the Band. Native
2 communities are the same as any other communities and
3 you hold open houses wherever you feel you are going to
4 get input and where people are interested, and if a
5 native community identified that they were certainly
6 interested, and that doesn't have to be that they have
7 to come forth and identify any concern, but we would
8 certainly entertain the idea of going to those
9 communities and having information centres. It is just
10 part of doing business.

11 MR. FRY: A. May I add to that. If
12 there was a native community within the forest or close
13 to the forest for which a plan is being prepared, we
14 would certainly take the initiative to find out if
15 that -- if it is appropriate to have an open house or
16 information centre at that community and we will follow
17 through on that.

18 MR. MUNRO: A. Just to add to what Mr.
19 Fry said, if there was a native community within the
20 area of planning, it is quite conceivable that they
21 would be represented on the regional communities, on
22 the local advisory committees and as the general public
23 as well, so there is a lot of opportunity to ensure
24 dialogue occurs on a continuing basis.

25 Q. Now I would like to turn to the

1 planning process itself and I will begin with you, Mr.
2 Innes. This five component planning process that the
3 Industry has put forward is, according to your
4 evidence, an integrated resource management planning
5 exercise; is that correct?

6 MR. INNES: A. That is correct.

7 Q. Have you ever taken any courses in
8 integrated resource management as a particular subject
9 matter?

10 A. The overall curriculum of forestry,
11 Madam Chair, deals with all forest resources in terms
12 of the biological components inside the forest, as well
13 as timber and the planning process that is put forward
14 in forestry curriculum talks about the management of
15 those resources on an integrated basis. To to that
16 extent, yes, Ms. Kleer.

17 Q. Could you explain for the Board how
18 resource management differs from integrated resource
19 management?

20 A. The best way I could approach it
21 would be to say that resource management could focus
22 upon an individual resource, where integrated resource
23 management would consider a number of resources on the
24 same area at the same time.

25 Q. What are the consequences of not

1 having integrated resource management planning and just
2 doing, for the sake of argument, timber resource
3 management planning?

4 A. It's a hypothetical question, Madam
5 Chair. I presume in my answer that we will deal with
6 the forest resource base, in this case, and as a result
7 I would suggest that if you did individual resource
8 planning you might in fact have to do more planning in
9 terms of duplication because a part of the management
10 planning process for the other forest based resources
11 has a forest component to it, which is why we tried to
12 address that as an integrated resource planning system.

13 Q. Would you agree that an integrated
14 resource management program should achieve or should
15 attempt to achieve multiple purposes? Would that be a
16 fair statement?

17 A. Yes, I think that would be a fair
18 statement.

19 Q. Perhaps we can turn to page 5 of your
20 witness statement and look at the second paragraph on
21 that page. I will read that into the record.

22 "The Industry's main purpose for planning
23 timber management activities (harvest,
24 access, renewal and maintenance) is to
25 ensure that there is an uninterrupted

1 economically competitive wood supply
2 available for the Industry on a sustained
3 yield basis with proper regard for those
4 other forest based resources which
5 influence or are impacted by the
6 management of the timber resource."

7 Now, the way I read that, Mr. Innes, is
8 that there is a single purpose to this integrated
9 resource management planning process and what the
10 Ontario forestry industry wants to achieve and there is
11 to be proper regard for other resources, but the
12 purpose is not to achieve whatever goal there might be
13 for the other resource if the purpose is to achieve
14 uninterrupted, economical competitive wood supply
15 that's available to the Industry.

16 Is that a fair summary of what that
17 paragraphs means?

18 A. No, I don't think it is a fair
19 summary, Madam Chair, of what that paragraphs means.

20 First of all, we are dealing with a
21 timber management planning process, which is the
22 subject in front of this Board, and as a result, the
23 focus of the timber management plan is on the
24 management of timber.

25 However, throughout this entire

1 presentation on behalf of the forest industry to the
2 Board we are emphasizing that there is a timber
3 management component to the other forest based resource
4 values and that, indeed, has to be managed along with
5 the rest of the timber resource, and that specifically
6 is managed for the achievement of the other program
7 goals and targets and for that reason we have called it
8 integrated.

9 So in summary, Madam Chair, there is very
10 careful consideration and recognition of the other
11 goals and objectives for resource programs which the
12 Ministry of Natural Resources and the other government
13 ministries are responsible for in conjunction with
14 timber management, and they have been considered in the
15 construction of this process which we are dealing with
16 here.

17 Q. In the Industry's opinion, does what
18 the MNR's planning process consist of constitute
19 integrated resource management planning as you've
20 defined it?

21 A. I believe that there was and probably
22 is a very great intent along that line. As we must
23 remember, we were talking about a forest management
24 plan originally on behalf of the Ontario Department of
25 Lands and Forests, as it was in those days, and is

1 still a forest management plan under the Ministry of
2 Natural Resources.

3 There is a timber management component in
4 the timber management planning we are talking about
5 now, but also a whole hierarchy of guides, guidelines,
6 operational manuals and what have you, that resort --
7 that focus directly on the management for other uses
8 and these are all part of the planning process.

9 So I would say, yes, they are, in my
10 mind, driving towards a cognizant integration of the
11 other uses within that planning process.

12 Q. Would you agree that what the forest
13 industry is really striving for in putting forward this
14 planning process is two things; first, a management
15 process which quantifies targets so that progress can
16 can be measured and, secondly, which has an improved
17 and more effective, in the Industry's view, set of
18 opportunities for public participation?

19 A. Yes, I would agree, Madam Chair, with
20 both those statements.

21 Q. Would you agree that your system does
22 not aim for efficient management of a variety of
23 resources other than the timber resource? Is that its
24 aim?

25 A. The aim, Madam Chair, Mr. Martel, is

1 for the efficient management of the timber resource and
2 for the efficient management of the timber resource
3 component of the other forest based resource programs.

4 Q. But not the other components of the
5 other resources other than timber resources, just the
6 timber component?

7 A. That is correct, just the timber
8 component. For example, the forest industry in
9 implementing an approved forest management plan has no
10 responsibility for fish and game enforcement as it
11 affects the moose population.

12 Q. I would like to turn, if we could, to
13 Exhibit 1272, the answers to the interrogatories, and
14 look briefly at MNR Interrogatory No. 2.

15 What I really want to focus on is the
16 last portion of that answer and I will read the
17 question, and if you need to refer to the rest of the
18 answer we will do so. The statement is made that:

19 "The Industry in the statement of
20 evidence is recommending a more effective
21 process for timber management planning
22 within the area of the undertaking."

23 And the two questions were:

24 "What does more effective mean in this
25 context and, secondly, in what respects

1 does Industry feel its proposed process
2 is more effective."

3 Now, at the last sentence of this answer
4 you state that, and this is condensed:

5 The process is more effective because,
6 among other things, it will produce a
7 plan that will be more easily understood
8 by the public and will be of greater
9 relevance to the plan implementer.

10 Now, that last portion of the answer,
11 "will be of greater relevance to the plan implementer",
12 are you saying that the current plan that is produced
13 is not relevant to the plan implementer or is less
14 relevant and, if so, in what ways?

15 A. Madam Chair, what we are saying -- we
16 touched upon it under Mr. Lindgren's cross-examination
17 of the FMA task force, is there is room for improvement
18 in the relevance of the plan to the implementer.

19 What we are suggesting, Ms. Kleer, is
20 that our planning process results in a more simplified
21 plan and one which is easier perhaps to implement at a
22 field staff level and of relevance in that respect.

23 Madam Chair, you may recall that I spoke
24 about the commitment that I thought people at the
25 ground level in the forest had to implementing plans to

1 taking care of other resources and to respecting the
2 environment. In fact, what we talked about was being
3 able to take a map like that to the field staff, be
4 they MNR, be they Industry, be they whoever, a
5 contractor that's implementing it, and having them not
6 just do something, but understand why it's necessary to
7 do that and, in fact, roll them in the process of
8 making those ground level operations - the light just
9 came on - be meaningful.

10 MR. COSMAN: It is almost too late.

11 MR. INNES: I hope that's a signal, Madam
12 Chair.

13 A little more meaningful and more
14 illuminating at a ground level than what the current
15 process is.

16 MS. KLEER: Q. Okay. Let's turn back to
17 your witness statement and go on to pages 8 and 9. I
18 am focusing on Section 2.2, The Planning Levels.

19 Now, if I can summarize, the Industry
20 contends there are four levels of planning: provincial
21 goals and objectives, the regional management level,
22 the district management level and the field
23 implementation level; is that correct?

24 A. That is correct.

25 Q. Now, if you read the second paragraph

1 at page 9, it says that:

2 "The Industry believes that the public is
3 interested in resources planning and
4 should be educated, consulted and
5 involved at three levels, provincial,
6 regional and district."

7 Is that correct?

8 A. That is correct.

9 Q. Are you saying that the public
10 doesn't need to be educated, consulted or involved at
11 the field implementation level?

12 A. Madam Chair, I would suggest that's
13 in effect an omission on our part as certainly they
14 need to be involved at that level as well. It is
15 important they understand what's happening, as I've
16 just spoke of a moment ago.

17 Q. So that paragraph should be amended
18 to say provincial, regional district and field
19 implementation level; is that correct?

20 A. I would say yes, that's correct.

21 Q. Well, my next question was going to
22 flow assuming that was true, but nevertheless I will
23 ask it anyways. It relates to the annual work schedule
24 question, and on that point I would like to talk
25 briefly about NAN's proposals for annual work schedules

1 and to do that we need to look at the terms and
2 conditions for NAN, which I don't know the exhibit
3 number of that.

4 MR. COSMAN: The hearing brief -- or
5 rather we filed a large document with all of them in it
6 and you have NAN's as well?

7 MS. KLEER: Yes. Does the Board have
8 that?

9 MADAM CHAIR: Yes, we do, Ms. Kleer. You
10 are No. 6 in your binder.

11 MS. KLEER: Okay, thank you. We didn't
12 the binder but we would have put it at No. 1.

13 Q. I would like to look at paragraphs 33
14 and 34B of NAN's terms and conditions, NAN and
15 Windigo's terms and conditions.

16 MR. COSMAN: Does everybody have it on
17 the panel?

18 MR. MUNRO: Mr. Fry and myself will share
19 this.

20 MR. COSMAN: All right.

21 MS. KLEER: Q. All right. What I will
22 do is just read the two sections of concern into the
23 record. The first one is at paragraph 33, page 18:

24 "For timber management plans that may
25 affect a native community, notice shall

1 be given to the Band Council of the
2 native community within 30 days of the
3 completion of the district review of the
4 annual work schedule."

5 Does the Industry agree with that
6 proposed change to MNR's terms and conditions?

7 Perhaps, Mr. Innis, I can ask that of you
8 or is someone more better able to answer that question?

9 Just for clarification, when we went
10 through this in the course of negotiations, it should
11 be understood that what we mean is prior to approval
12 of the annual work schedule, 30 days prior to approval.

13 MR. COSMAN: How are you amending that,
14 after 30 days it is -- 30 days prior to the approval?

15 MS. KLEER: It should be:

16 "...notice shall be given to the Band
17 Council of the native community 30 days
18 prior to approval of the annual work
19 schedule."

20 I believe that's correct.

21 Q. With that amendment, Mr. Innes, is
22 that something that the Industry supports or can you
23 answer that at this point?

24 MR. COSMAN: I don't think we've had an
25 opportunity to consider your amendment before and what

1 I would do, with your approval, is allow the witnesses
2 to consult with each other and with their association
3 to find out whether that is so.

4 I mean, what you have just suggested is
5 brand new and is not what was in your original terms
6 and conditions.

7 MS. KLEER: Sorry, I apologize, it was
8 meant to be. We had drafted it incorrectly.

9 MR. COSMAN: We will undertake to get
10 back to you on that.

11 MS. KLEER: That would be appropriate.

12 Q. Secondly, if we can look at 34(b),
13 and we haven't made any changes to this.

14 "MNR shall ensure that a summary of the
15 annual work schedule is made available
16 to the Band Council of any affected
17 native community and a summary shall be
18 provided in English and in the
19 appropriate native languages unless the
20 Band Council requests otherwise."

21 Again, Mr. Innes, is that something which
22 the Industry would support?

23 MR. INNES: A. Yes, Madam Chair, it is.

24 Q. Now, would that summary be made
25 available after the annual work schedule is approved?

1 Is that how you would see it being done?

2 What I am trying to get at, from my
3 understanding of the Industry's term and conditions,
4 they feel that inspection of the work schedule is all
5 that needs to be done?

6 A. Yes, that, Madam Chair, is the
7 relevant point. And in response to your question, yes,
8 we would see that being provided after the approval of
9 the annual work schedule.

10 Q. Would it, in your opinion, be
11 reasonable for the Ministry or the forest industry,
12 depending on who was responsible for plan, to transmit
13 to a native community which will be affected by a
14 particular activity in a particular year notice of
15 that, or those particular activities prior to approval
16 of the annual work schedule in case the native
17 community had missed something at some point or in case
18 something had changed in the interim which would be
19 effected by the plan activities in a way that they
20 hadn't anticipated before?

21 A. I am having difficulty with that one
22 Madam Chair. As I -- and I will try an approach it in
23 this direction.

24 First of all, the annual work schedule
25 should be something that's extracted from the approved

1 plan, so there should be no changes to the approved
2 plan. If you follow that idea back one step, in fact
3 the native community, I would have hoped, would have
4 been involved in the preparation of the approved plan
5 if the process worked the way we see it working, and
6 would be fully cognizant of what activities should take
7 place, in which location on the ground, to what extent
8 and be aware of the timing of those activities as well.

9 So given that, there should in fact be
10 recognition of what's going to happen at what place at
11 what point in time, and there should be no surprises as
12 a result. If that all occurred according to the plan,
13 I would see no neccesity to advise anybody, be they
14 native community or others, of something that was
15 preplanned and in which they had input to.

16 If there is a given situation where
17 something changes, and I presume this can only happen,
18 as we understand it, through amendment to the planning
19 process, if it is a major amendment, my understanding
20 is there would be public input at that point and I
21 would think that the affected communities would be
22 notify as part of that notification process which we
23 have proposed under there and, again, there would be
24 input.

25 My understanding is, there is nothing

1 that can happen in the forest -- timber management
2 planning system unless it's planned and open for public
3 inspection. So I have difficulty comprehending where
4 there would be something that was not known.

5 All I can think of, Madam Chair, would be
6 a situation in which somebody discovered an insect
7 outbreak, for example, that needed immediate attention
8 as an epicenter, in which case there would have to be
9 public consultation again before any activity could
10 take place. And what I am driving towards is that all
11 activities that occur in the forest are either planned
12 under an approved process with public input or have
13 another special situation which requires public input,
14 and I can't conceive of anything in which there would
15 not be adequate consultation.

16 In direct response to Madam -- Ms.
17 Kleer's comments --

18 Q. That's all right.

19 A. Sorry. You can call me anything you
20 like.

21 I would think that there should be
22 notification if something came up and was not involved
23 in the planning process in which there wasn't adequate
24 opportunity for input, by all means, but I can't
25 conceive of that happening under the process we are

1 laying before the Board.

2 Q. I think what I am getting at is, what
3 if the community itself makes a change in its proposed
4 uses of the area around its community, how would -- if
5 the annual work schedule is simply supplied to them and
6 it's all a done deal and the native community has no
7 opportunity to say: Well, hold on a minute we have
8 decided we want to do this in this particular area,
9 there would be no way in your proposed system of just
10 providing them with the annual work schedule as a done
11 schedule that they could ever provide that information
12 so that a change, maybe a minor adjustment could be
13 made.

14 MADAM CHAIR: I don't quite understand
15 that if they have essentially five years' notice of
16 what's going to be in the annual work schedule.

17 MS. KLEER: I am trying to think of an
18 example. I guess what I am getting at is that a
19 community may not plan its activities five years in
20 advance, that might be a good idea, but they may not do
21 that and if that occurs, then this annual work schedule
22 idea isn't going to address changes that occur within
23 that five-year planning period. That's what I am
24 trying to aim at.

25 Q. And I guess if you were to accept

1 that - and that's a hypothetical, I appreciate - as
2 being something that could occur, would you agree that
3 it would be useful to provide a notice of the annual
4 work schedule prior to its being approved so that such
5 concerns could be raised prior to the annual work
6 schedule sent out?

7 MR. COSMAN: Madam Chair, I am having
8 some difficulty just understanding the question. What
9 kind of activities are you suggesting are going to
10 change? What are we talking about, just to put it in a
11 real life context?

12 MR. INNES: I am having the same
13 difficulty, Madam Chair, because what I am missing is
14 the link between the Band's activity on Crown land and
15 the rest of the other activities on the Crown land and
16 I would assume, though I don't know, there are some
17 process within the Ministry of Natural Resources which
18 would sanction activities on Crown land.

19 For example, the one I can come up with
20 in my mind is, supposing a market develops for some
21 different type of fur bearing animal which there wasn't
22 a market for before and there was an opportunity to
23 institute traplines on Crown land to sustain native
24 activity, I would assume, because traplines are a
25 registered type of activity, that the Band would go to

1 Ministry of Natural Resources and say: We need
2 trapline licenses to run this new activity, that would
3 immediately trigger something in the Ministry of
4 Natural Resources saying: We may be in a conflict with
5 the timber management planning which is approved for
6 that area, we are going to have to get a plan
7 amendment, we start the whole process going to do that.

8 Beyond that example, I am unable to come
9 up with anything.

10 MR. MUNRO: A. Perhaps I could provide
11 an --

12 Q. Well, perhaps I could since I am
13 supposed to be asking these questions.

14 A commercial fishing licence gets
15 approved at year three and they didn't know at year
16 zero that they were going to even apply for this
17 commercial fishing licence, but they get this
18 commercial fishing license.

19 That kind of new development may not be
20 something which the Ministry of Natural Resources
21 branch which deals with that issue communicates to the
22 timber side within the Ministry of Natural Resources.
23 Is that possible?

24 I mean, how does MNR communicate within
25 itself. I don't know if you can answer that.

1 MR. INNES: A. That has always been a
2 mystery to me, Madam Chair. Quite seriously, I'm not
3 able to answer that question.

4 MR. SUOMU: A. Madam Chair, if I might
5 interject. There is an amendment process in place
6 within the Industry proposal that amendments can be
7 initiated from either side.

8 If the native community is in fact
9 proposing some additional activity which impacts on the
10 annual work schedule, I would assume I could deal
11 through the plan author or go through an amendment
12 procedure to the MNR. So there is that avenue. I
13 don't know what example there would be, but it is open.

14 MADAM CHAIR: Ms. Kleer, is this a
15 convenient time for lunch?

16 MS. KLEER: Yes, I have just completed
17 this section.

18 MADAM CHAIR: Thank you. The Board will
19 be back in an hour and a half.

20 ---Luncheon recess taken at 12:10 p.m.

21 ---On resuming at 1:40 p.m.

22 MADAM CHAIR: Please be seated.

23 Ms. Kleer.

24 MS. KLEER: Q. Did the members of the
25 panel discuss paragraph 33 of NAN's terms and

1 conditions over the lunch break?

2 MR. INNES: A. Yes, we did, Madam Chair,
3 and we would request that you give us the precise
4 wording that you would like to have and we will take it
5 back and we will discuss it further as there was some
6 disagreement as to what the precise wording was, and we
7 would like to give it fair consideration.

8 Q. All right, we will do that.

9 A. We will undertake to bring it back to
10 you, Madam Chair.

11 Q. All right. Just a point of
12 clarification on the annual work schedule matter that
13 we left off. It's true, is it not, Mr. Innes, that it
14 would not be known if one looks at the five-year plan
15 where the proposed activities will occur in any given
16 year and that information only becomes apparent upon
17 looking at the annual work schedule; is that correct?

18 A. Madam Chair, I'm not sure about that.
19 I would have to ask one of my colleagues to answer
20 specifically.

21 MR. MUNRO: A. Could I ask you just to
22 repeat it, Ms. Kleer?

23 Q. You weren't listening, Mr. Munro.

24 A. Yes, I was listening intently.

25 Q. The question is, in the five-year

1 plan, if you look at the five-year plan, will you see
2 set out in the five-year plan where exactly the
3 activities will occur in any given year, or is that
4 information only available upon looking at the annual
5 work schedule?

6 A. In the five-year plan there is no
7 indication when the activity will occur with the
8 exception in areas -- or particular operations that may
9 have been identified as a concern, and as part of the
10 documentation and the planning of activities, there
11 might be some restrictions placed on a particular
12 activity, and one example that would come to mind is
13 seasonal restrictions in terms of tourist operations.
14 You might not be able to operate between the, let's
15 say, the May long weekend and the September long
16 weekend.

17 There could be other operations that
18 would indicate that you would have to cut a particular
19 area over a period of time in order to ensure that your
20 operations were concluded by a certain date to allow
21 the other resource users to continue their activity.
22 Just a couple of things that come to mind.

23 But site -- or identifying exactly where
24 all activities will take place in the five-year plan by
25 a yearly basis is not identified.

1 Q. All right. When we discussed this
2 over the break, Donna and I came up with a number of
3 situations in which information relevant to a
4 particular year might not be brought out in the course
5 of the development of the five-year plan and I will
6 just mention a few examples.

7 First, where a community might have
8 acquired commercial fishing licenses, as we discussed
9 discussed; secondly, where they had reached an
10 agreement to set up an outpost; and another example is
11 where an individual who originally was located in a
12 town or a city decides to relocate within the community
13 and reactivate their trapline.

14 Now, given those types of situations,
15 wouldn't it be more efficient, in terms of dealing with
16 any controversies that might occur between the timber
17 management planned activities that were planned in year
18 zero of the five-year plan and those newly developed
19 community level activities that I gave examples are, to
20 provide the native community with notice prior to
21 approval of the annual work schedule for two reasons;
22 one, because it might be a way of pre-empting or
23 activating the amendment process quickly, or also
24 because it may simply allow the native community to
25 determine that there is no conflict and things can go

1 on?

2 Wouldn't you agree that that would be
3 necessary pre-notice?

4 A. If I could address the three items.
5 The first one I believe is commercial fisheries?

6 Q. Mm-hmm.

7 A. The second one was a new outpost
8 camp?

9 Q. Mm-hmm?

10 A. And the third one was a trapline in
11 terms of reactivating --

12 Q. Reactivating the trapline.

13 A. Okay. The first one, dealing with
14 commercial fisheries, for the most part would have
15 little or no effect on timber operation or timber
16 management planning other than the application of the
17 Fish Habitat Guidelines, and I would suggest that that
18 would occur regardless of whether it was a commercial
19 fisheries, a regular fisheries in a sense that it's
20 available, and there would also be some consideration
21 using the Fish Habitat Guidelines to deal with water
22 quality.

23 So in that particular case, it could be
24 that that would have no effect and that the plan would
25 proceed as it was implemented -- or approved to be

1 implemented, that there were no effects.

2 Q. Could it be that there would be an
3 effect, though, because you hadn't applied the
4 guidelines to that particular body of water because
5 there was no identified value up until the time that
6 the native community got its license?

7 A. Hypothetically it could, and we did
8 attempt to address this type of situation in our Ts and
9 Cs, and if I could just have second I will refer to the
10 particular term and condition.

11 It's actually the OFIA/OLMA term and
12 condition No. 79, page 56. We share a similar concern
13 as to what Ms. Kleer has identified in the sense that
14 if we go ahead and plan all our activities and a new
15 land use comes into play, we feel that we should be
16 notified of that land use and have some input into it
17 as well.

18 Term 79 is designed to address that. If
19 there was a new commercial fisheries being established,
20 79 is to provide for some initial formal process in
21 terms of public consultation and review and we see the
22 forest industry as being part of that, as well as MNR.
23 It's an important point, it's one that we have some
24 real concerns over too, that we would spend a
25 considerable amount of time and effort producing a plan

1 and then for some reason somebody is going to change a
2 land use, in terms of creating a new land use that we
3 didn't know about, and subsequently it could have a
4 tremendous effect on our plan.

5 Before that, in my mind, could be
6 finalized, it would go through a form of public
7 consultation and review where we would have input and
8 the impact that we proposed -- changed in land use
9 would be assessed and if it did have an impact it would
10 be dealt with in in that manner and that would pertain
11 to almost all three examples; i.e., new commercial
12 fisheries, a new outpost camp. The trapline, however,
13 is a slightly different example in that even though
14 traplines are inactive per se, people are not utilizing
15 them, we still plan for those activities because it is
16 a value and it has been identified.

17 So, again, it would have little or no
18 impact on the plan activities because it has been
19 planned for.

20 Q. May I interrupt there. How do you
21 know it would have been identified if no one was
22 involved in that trapline at year zero?

23 A. Madam Chair, traplines are a value
24 and they are identified. In northern Ontario, most of
25 the area is licensed in terms of traplines. I know our

1 particular area that I deal with it's -- we know where
2 the traplines are, MNR has told us where they are, and
3 we plan accordingly.

4 Q. Just looking at your term and
5 condition 79, then. What you are saying, it would seem
6 to me, is that any time a native community wants to
7 develop, it's not only going to be the forest industry,
8 but it's going to be every other body, every other
9 member of the public, every other group, such as OFAH,
10 such as NOTOA will be involved in that decision.

11 Is that what you are proposing by your
12 term and condition 79?

13 A. Madam Chair, what we are proposing in
14 79 is that there would have to be some element of
15 significance and MNR would be the party that would make
16 the decision on: Is this really a significant change
17 in land use, and if it is, yes we are saying that we
18 would like to be part of the public consultation
19 process and review that.

20 If in fact it isn't of significant value,
21 and an example of that would be if a native community
22 came and wanted to cut a particular block of wood for
23 their own use, we as the Industry would probably amend
24 our plans for that and it could -- the district manager
25 would classify that amendment as to whether it was

1 administrative minor or major and the appropriate
2 planning technique would take place.

3 There certainly has to be some element of
4 significance attached to 79.

5 Q. Assuming for the moment that your
6 term and condition 79 wasn't allowed by the Board--

7 MR. COSMAN: Was?

8 Q. --was not approved by the Board,
9 would you see the suggestion that NAN has made; i.e.,
10 that they receive prior notice of the annual work
11 schedule prior to its approval in order to identify the
12 kinds of things we've talked about, as a useful tool?

13 A. I think Mr. Innes indicated that that
14 is still being --

15 Q. All right.

16 A. If you could give us your wording we
17 would be more than --

18 MR. COSMAN: That is the same question as
19 before; is it not?

20 MS. KLEER: Essentially, yes.

21 MR. MUNRO: If you could provide us with
22 the wording, we would certainly look at it.

23 MS. KLEER: Q. One further question on
24 this matter. You have said in your evidence at page 9,
25 and we have revised that this morning, at page 9,

1 paragraph 2, that you believe the public should be
2 involved at the field implementation level.

3 Now, it seemed to me that the examples we
4 have been discussing are precisely the kinds of issues
5 where a member of the public or a group of the public
6 should be involved at the field implementation level.
7 Would you agree with that?

8 A. I think our proposal that we have
9 laid before the Board certainly would have the public
10 involved at the field implementation level in the sense
11 that the plan author would work with those interested
12 individuals to develop the planned activity.

13 In my mind, that's being involved, that's
14 being part of the planning process and participating
15 and coming up with the draft plan. They also have the
16 opportunity to sit on advisory committees, review the
17 draft plan, review the final plan and provide input as
18 well, regardless of who the individuals are.

19 Q. So with respect to your comments
20 about the plan author working with individuals, at year
21 three, would it be reasonable to expect that the plan
22 author would contact the native community prior to the
23 planned activities being worked out in the annual work
24 schedule and saying: This is what we plan for the
25 year?

1 Is that going to be a problem, that we
2 want to talk about this, or will that all have been
3 dealt with at plan production stage, year zero?

4 A. Madam Chair, I think that's the same
5 question that we were asked to look into.

6 Q. No, I am asking prior to annual work
7 schedule being even, you know, put onto paper, when you
8 are thinking about it, if you want an interactive kind
9 of discussion with the native community, wouldn't that
10 be appropriate? I'm not even talking about the term
11 and condition, I'm talking --

12 A. I understand you now. Madam Chair,
13 my answer to that would be that we see the values map
14 that's produced for the particular management unit as
15 being an inventory of values that is constantly updated
16 and is available to the public on an ongoing basis.

17 If a native community or any other
18 individual or group came in and said: We now have a
19 new value that we would like you to consider, it would
20 be considered in light of the amendment process and be
21 a process in that accordance.

22 Q. What I'm getting at, Mr. Munro, is
23 what context would they come to you and say: We have a
24 new value?

25 You've got all your first year

1 information centres completed, your inventories have
2 been completed in your preplanning process and there
3 doesn't seem to be any sort of ongoing conduit to
4 convey this kind of information.

5 A. For the most part, it probably
6 wouldn't come to the plan author to identify new
7 values. We find most people initially go to MNR since
8 they are the administering Ministry and I don't think
9 we'd want to change that. I think the government
10 agency still has to be the first initial contact.

11 Once that initial contact is made and the
12 people have identified their value, then I think at
13 that point MNR would advise the company or the plan
14 author that somebody has identified a new value and
15 that they are possibly considering the amendment to the
16 plan and discussions would occur.

17 There is a danger in having information
18 funnelled through a number of people and I think as
19 long as we maintain MNR as the initial contact, we can
20 be assured that all values are identified since they
21 have considerably more contact with individuals than
22 the company would have.

23 As you are probably aware, they deal on a
24 daily basis with individual on a number of activities,
25 not just timber management planning. Say if there was

1 a trapper, he has to have some contact with MNR and
2 during that course of contact would probably identify
3 the new value, so...

4 Q. I just have one other question, Mr.
5 Munro, regarding your evidence this morning about the
6 Grassy Narrows Band.

7 Other than the Grassy Narrows Band, have
8 you had any experience with any other Bands within your
9 forest management agreement area?

10 A. There is only -- I can count I think
11 three and possibly four Bands that are within or
12 adjacent to our FMAs. I have had personal contact with
13 three of those four bands over the course of my career
14 with the company.

15 The fourth Band is identified as a
16 reserve, but there is really no community there per se
17 and the community comes in and goes out with the
18 seasons and we really haven't had direct contact with
19 them, but the other three of the four, yes, we have had
20 contact.

21 Q. All right. With that, I will return
22 to the course that I had set and deal with the issue of
23 preplanning. If we can turn to page 18. I won't be
24 referring to it always, but I would like the Board to
25 have it in front of them.

1 Mr. Munro, of the items listed on page
2 18, A through J, which under your process are to be
3 collected by the district manager and regional staff,
4 which ones are currently not reviewed by the MNR
5 planning teams in the preparation of their timber
6 management plan under the MNR planning process?

7 MR. MUNRO: A. Madam Chair, the only one
8 that I can indicate right now is item I, the
9 recommendations of the advisory committee is not
10 reviewed simply because that structure is not in place.

11 All the rest of the information is
12 reviewed in the broad sense, that that's how MNR
13 carries out their management for all resources. What
14 we would like to see in the background information is
15 that there be an assembly of that information in a
16 central location, that there be some type of analysis
17 of that information in terms of identifying problems
18 and issues with the background information, and that
19 there be some type of strategy put in place to deal
20 with those particular problems and issues.

21 In addition to that, we would see, as we
22 mentioned, an executive summary presented which would
23 highlight that information and summarize it in some
24 fashion that was concise and understandable and the
25 general public or any interested group could take away

1 with them.

2 Q. What do you, based upon your
3 experience with the native communities that you have
4 interacted with, see as being the types of relevant
5 information that up refer to at Item J about native
6 communities which the district manager should be
7 assembling that would assist you in your planning?

8 A. That's an interesting question in
9 that it is a community on itself and we define a native
10 community on itself.

11 We don't collect information about other
12 communities in the sense that we wouldn't have
13 information about Kenora in my particular area, simply
14 because it's more or less a given that there is a few
15 items that are understood or generally not for Red Lake
16 or Ear Falls or some of other communities that in or
17 adjacent to the forest management units that I look
18 after, but we do provide in our process advisory
19 committees and we have had identified native
20 communities as being one of the interest groups that
21 will definitely be on this community at a local level
22 and a regional level and a provincial level as well.

23 So we are providing them with some type
24 of distinction in terms of being a unique community as
25 opposed to being just an ordinary community.

1 Q. Are you saying, then, that in the
2 course of assembling background information that that
3 would not be the point at which information about
4 native communities would be gathered, but it would
5 rather be at the point -- one of the three advisory
6 committees. Is that what you are saying?

7 A. Initially the background information
8 would be prepared by the district manager and presented
9 to local citizen advisory groups, the general public
10 and the regional committees.

11 That's not to say, and I think we have
12 provided -- in fact, I know we have provided in our
13 process where that the district manager and plan author
14 have the opportunity to revise the executive summaries
15 and the associated information that's available to them
16 given the input and review of the various public
17 groups.

18 I think one would have to be careful that
19 they don't see this as an all inclusive list, that it
20 was just an example of what would be available and it
21 would be whatever the advisory committees felt was
22 appropriate, would be in the background assembly.

23 Q. So what you seem to be saying, and
24 help me with this, is that really the responsibility
25 for obtaining or getting the information about the

1 native communities isn't going to rest with the
2 district manager and regional staff, but instead is
3 going to rest with the local citizens committee which
4 has native representation. Is that what you are
5 saying?

6 A. Madam Chair, I'm not saying that at
7 all. I'm saying that the district manager would put
8 together an initial draft of the background information
9 and present it. The initial draft could -- and in most
10 cases where there was a native community within the
11 area that was being planned for, would obviously
12 identify that native community as having some interest
13 and possibly some values associated with it as they
14 relate to timber management planning.

15 It's in the initial draft executive
16 summary that's presented to the local advisory
17 committee, it's not the final one and subject to public
18 review and public input it can be revised at a later
19 date.

20 Q. All right. Let's go back to my
21 initial question. What kinds of information about the
22 native community would you see being collected by the
23 district manager based upon your experience in working
24 with native communities?

25 A. Okay. I can provide some examples in

1 terms of our recent plans. One would be traplines,
2 another one would be the allocation of wood in the
3 proximity of the reserve or native community that could
4 be used for firewood purposes for the native community,
5 that could be used to provide employment.

6 One that comes to mind quite readily is
7 one of the Bands in our area grows nursery stock, we
8 deal with them on growing that stock in the sense that
9 we utilize it on our FMA lands, access to lakes that
10 natives used to carry out wild rice harvesting is
11 identified, values that are associated with tourist
12 lodges that native communities own, outpost that are
13 owned by natives are also identified, access
14 considerations have been identified in our plans.

15 In fact, thinking of resource management,
16 I could hardly think of anything that wasn't addressed
17 in some fashion or identified by contact with the one
18 particular Band, and pretty well everything that we
19 deal with as normal harvesting or planning timber
20 management activities is of interest to the Band as
21 well and if they have a community within that
22 management unit that could be affected, in most cases
23 we deal with most issues, you know, from timber
24 harvesting to access building, to renew operations, to
25 protection operations.

1 Q. Now, under your planned process, the
2 district manager is now going to be responsible for
3 that type of information gathering, is that fair, based
4 upon what you said about your background information
5 assembly?

6 A. The district manager would definitely
7 be responsible for collecting that information in
8 consultation with technical experts, in consultation
9 with known interest groups of which the native
10 communities would be one, and in consultation with
11 individuals as well.

12 It's not -- and I have to repeat, it's
13 not something that's laid down that this is it, this is
14 all the information we have. We have designed a
15 process to gather information and to expand our
16 information base as opposed to just saying: Here it
17 is, take it or leave it. So our entire timetable in
18 the process is designed to that end.

19 Q. All right. Let's turn now to the
20 integrated resource database assembly, page 19 and 20.
21 Again, looking at the list of district manager
22 responsibilities set out on pages 19 and 20, under the
23 current MNR process, which types of information are not
24 collected?

25 A. The only one that I can identify that

1 is not collected at the current time within the area of
2 the undertaking would be the forest eco-systems
3 classification. As was mentioned yesterday, in some
4 areas of the province that's not available. Other than
5 that, the exception of other relevant information, I
6 would -- or I do believe most of the other information
7 is collected by MNR.

8 Q. Now, you may have answered this
9 already in your former comments, but in the forest
10 industry's opinion is information about a native
11 communities' goals for its community, with respect to
12 economic development, fur bearer, harvest, those types
13 of things, relevant information to be collected by the
14 district manager in the assembly of the integrated
15 resource database or is that background information?

16 A. Madam Chair, it's a combination of
17 background information and integrated resource
18 database. Background information in a broader sense
19 deals with, say, the entire district as opposed to one
20 particular forest management unit.

21 Integrated resource database tries to
22 focus on that particular management unit and all the
23 values and inventories that are identified for that
24 particular unit in order to assist the plan author and
25 the general public in planning those activities.

1 Q. But you would agree that those types
2 of goals, native community goals, are the types of
3 information that should be collected at one or both of
4 those preplanning stages?

5 A. If it is deemed it's relevant
6 information and brought forward either by a number of
7 parties or one party, I see no reason why it wouldn't
8 be included if it is deemed relevant.

9 Q. Deemed relevant by whom?

10 A. I would think it would be deemed
11 relevant by the Ministry of Natural Resources.

12 Q. And at this stage of the preplanning,
13 would you see that the district manager should be
14 responsible for gathering information relating to the
15 planned or present use of the timber resource by a
16 native community?

17 A. Again, I would have to say if it is
18 deemed relevant, yes.

19 Q. Would you --

20 MADAM CHAIR: Excuse me, Ms. clear.

21 MS. KLEER: Sorry.

22 MADAM CHAIR: Is there any information
23 about which you and the Ministry would disagree in
24 terms of whether it were important or not?

25 MR. FREIDIN: I'm sorry, Madam Chair, I

1 didn't hear you.

2 MADAM CHAIR: Is there any information
3 upon which and the Ministry would disagree? Would
4 Industry see some type of information as being
5 important and the Ministry of Natural Resources
6 wouldn't?

7 MR. MUNRO: It is an interesting
8 question. I can't think of an example where that would
9 occur. That's part of the reason why we have advisory
10 committees, so that there is a sounding board, a
11 committee that can be used, and if there was a
12 difference it could be discussed in an open format and
13 using the advisory committee, whether it's local or
14 regional, as a sounding board to help us out in terms
15 of identifying what is relevant.

16 MADAM CHAIR: It seems to me there might
17 be some situations, though, where you would want a
18 certain type of information that might require an
19 inventory or a survey or something that would cost the
20 Ministry money and they simply couldn't afford to do
21 that, they didn't have the money, they didn't have the
22 people. You would be left dissatisfied that you didn't
23 have a complete information base.

24 MR. MUNRO: What would happen in that
25 particular case, Madam Chair, is that that would

1 identified as a significant problem and issue in the
2 executive summaries. There would be some strategies
3 put together and I believe we have indicated that there
4 would be some associated costs demonstrated for the
5 collection of that information, and then that would be
6 taken to the advisory committees for their comments and
7 input.

8 If it still remained a contentious issue
9 or something that needed to be highlighted, it would be
10 taken to the regional committee for their input and
11 review. Once it got to that level, that there might be
12 a higher priority placed on it and that fund would be
13 made available if it is deemed necessary or not.

14 MS. KLEER: Q. All right. Let's go to
15 Question 14 of NAN's interrogatories in Exhibit 1272.

16 Now, the question -- just for the Board's
17 clarification, this was an error that I didn't catch.
18 It doesn't refer to page 40 of the witness statement,
19 it is just a general question.

20 MR. COSMAN: I'm sorry, the question did
21 refer to page 40.

22 MS. KLEER: Well, it did refer to page 40
23 but it was not intended to. Page 40 of the witness
24 statement doesn't deal with this issue, it was a
25 mistake in the original typing.

1 Q. The question was:

2 "Where does the plan author intend to
3 obtain objectives and strategies for
4 native community timber and non-timber
5 forest uses."

6 And the answer was:

7 "The plan author receives the objectives
8 and strategies for timber management and
9 the timber management component of other
10 resource programs from the MNR. These
11 objectives and strategies are developed
12 at a provincial level, modified for
13 regional applicability and translated to
14 a management unit level. As a result,
15 native resource use input would come from
16 the public consultation process through a
17 variety of sources, individual input,
18 collectively through Band participation
19 or through a representative member of the
20 senior policy committee, the IRUC or
21 the local citizen advisory committee."

22 Now, I take it you adopt that, Mr. Munro,
23 as your answer?

24 MR. MUNRO: A. It is definitely the
25 answer to the interrogatory.

1 Q. all right. Now, the problem that I
2 am having with this, it says in the third sentence:

3 "...as a result native resource use input
4 would come from the public consultation
5 process."

6 Are you saying by that that the process
7 of development and modification of objectives from the
8 provincial down to the regional and then, finally, to
9 the management unit level doesn't include
10 identification by native communities of their own
11 community level objectives?

12 Community level objectives, that's what I
13 am focusing on.

14 A. I know I am not suppose to ask
15 questions, but --

16 MR. COSMAN: If you are asking for
17 clarification of the question, that's all right.

18 MR. MUNRO: Thank you, Mr. Cosman.

19 I am somewhat confused in terms of what
20 some of the native objectives in my mind would be,
21 things that weren't related to resource management.
22 Are you indicating that somewhere they would be
23 identified?

24 MS. KLEER: Q. What I am saying is a
25 native community's objectives may have an impact upon

1 the timber resource and may be impacted by the timber
2 resource management. What I want to know is, where are
3 their community level objectives that impact upon the
4 timber resource going to be considered?

5 Are they going to be considered only at
6 the level of integrated resource database, all that
7 preplanning stuff, or are they ever going to be
8 addressed up at these advisory committees or at
9 provincial, regional levels? Where do they fit in?

10 A. Madam Chair, I guess my answer to
11 that, they fit in to the appropriate spot where they
12 were deemed to have a significant impact.

13 If it was a particular community
14 objective that affected a region as opposed to a
15 particular management unit, I would think they would be
16 reviewed at the management -- or at the regional level.
17 If they were an objective that had some impact on a
18 provincial policy, they would be reviewed at the level
19 as well.

20 MADAM CHAIR: I thought the evidence we
21 heard from you yesterday, Mr. Munro, that you suggested
22 that an organization such as NAN would be an
23 appropriate candidate for sitting on both the senior
24 policy committee and the IRUC.

25 MR. MUNRO: Most definitely and the local

1 citizens group, too. So depending upon the
2 significance of the objectives, it would go to the
3 appropriate level.

4 MS. KLEER: Q. All right. I am talking
5 about a community. NAN is an organization that
6 represents a lot of communities across northern Ontario
7 and those communities are all quite different from each
8 other.

9 Is NAN going to be expected to sit on one
10 of these policy committees at the senior level or at
11 the regional level and say: Community "x" has these
12 objectives, let's talk about it? Is that what you see
13 in our process or is that going to occur only at the
14 local level, or is it really going to occur during the
15 preplanning phase where district managers and plan
16 authors go out and collect information?

17 MR. MUNRO: A. I'm having some
18 difficulty understanding the question.

19 Q. All I really want to know is, how are
20 community based -- community specific objectives that
21 will have or may have an impact on the timber resource
22 going to be addressed?

23 MADAM CHAIR: Doesn't that beg the
24 question, though, Ms. Kleer, if NAN can't do it, then
25 who can?

1 MS. KLEER: Well, maybe communities can.
2 I'm not saying --

3 MADAM CHAIR: Yes, but I am just saying
4 in terms of certainly an organization such as NAN would
5 want to be in the position to do that.

6 MS. KLEER: Or the communities perhaps
7 would want to do that themselves on an individual
8 basis.

9 My real concern is, are somehow community
10 based objectives going to be lost in this process. I
11 just want to make sure that there is some point where
12 you see them fitting in.

13 MADAM CHAIR: As between one native
14 community, one Crown -- or one management unit and one
15 company?

16 MS. KLEER: That's right, because
17 communities are different and they all have different
18 objectives and I think that -- you know, I am going to
19 get into the question of how the advisory committees
20 will be expected to deal with that, but I am just
21 wondering if at this point -- let me go back.

22 Q. The reason I had problems with this
23 answer was because it seemed to me that what you were
24 saying was that because there are provincial objectives
25 and strategies and they are modified at the region and

1 then translated to management unit level, the public
2 consultation process at the local level is going to be
3 the only place where you get community level input and
4 is that what this answer meant?

5 MR. MUNRO: A. Definitely not.

6 Q. All right.

7 A. What it meant to say was that there
8 would be a formal process put in place where there is a
9 review of provincial targets, where they are formally
10 translated down to a management unit.

11 Provided we recommend representation of
12 native communities on those advisory committees, they
13 would be no different than, say -- let's take for
14 example the local anglers and hunters, that that
15 particular group would nominate to what we are
16 recommending a person, MNR would appoint them to the
17 advisory committee and in that way we would hope that
18 there would be a fair amount of informal type
19 discussion between the representative and the
20 communities.

21 I know we can't dictate that happens, but
22 it would be difficult to have a number of people trying
23 to represent one affiliation. I would see that
24 happening if it was a particular native community and
25 they didn't have representation, that they would work

1 through their representative to ensure that their needs
2 and concerns were definitely addressed at the various
3 levels.

4 Q. Okay. I will get to that later.
5 Let's go back to the integrated resource database. You
6 say it's integrated, what do you mean by that?

7 The way I understand it, you have got a
8 district manager producing one values map, the plan
9 author producers another one, they are are different
10 scales and then they go to the local citizens committee
11 with executive summaries that they've each prepared and
12 say: Here it is. What's integration in that process?

13 A. Madam Chair, we're not suggesting
14 that there be more than one values map identified for
15 the management unit. The district manager in
16 conjunction with regional and interested parties would
17 do the initial input on to the values map, the plan
18 author would provide input in conjunction with
19 technical experts onto that values map.

20 That would be taken to the advisory
21 group, they in turn could put their values on that same
22 map of the same scale, and as you move through the
23 planning process the values map is constantly updated
24 as new values are identified.

25 None of this can be done in isolation.

1 The district manager can't produce a values map without
2 talking to people, the author can't produce his values
3 or her values without dialoguing with people as well.

4 By ensuring that there is continuous
5 discussion on what values are and how they are
6 protected, we think that's integration by the mere form
7 that there has to be some discussion, the guidelines
8 provide for a certain amount of integration and we have
9 recognized in our planning process that we deal with
10 timber management objectives, as well as the timber
11 component of the other resource programs and that in
12 our mind is integration.

13 Q. Okay. At this stage of the process,
14 do the plan author and district manager, after they
15 have each done their information collection, sit down
16 and identify areas of conflict that they see between
17 the different values, whether it be between two
18 non-timber values or between a timber value and a
19 non-timber value, and develop strategies and bring them
20 to the local citizens committee?

21 A. The answer is yes.

22 Q. Okay. Mr. Innes, is it the plan
23 author's responsibility under the proposed system to
24 identify at the planning stage -- sorry, at the
25 preplanning stage -- this may be your question, Mr.

1 Munro, but I will ask it of Mr. Innes and please
2 listen.

3 Is it the plan author's responsibility
4 under the proposed system to identify at the
5 preplanning stage existing and future requirements of a
6 native community for timber resource allocations that
7 we were talking about earlier?

8 Either one can answer. I believe, Mr.
9 Munro, you may be the one.

10 MR. MUNRO: A. I would like to afford
11 Mr. Innes the opportunity.

12 MR. INNES: A. Thank you, Mr. Munro.
13 The answer, Madam Chair, is that it is both the
14 district manager and the plan author's responsibility
15 to recognize all values at the preplanning stage and it
16 would be done in conjunction with input from the local
17 citizens committee, from the technical experts.

18 By the way, Madam Chair, I consider that
19 there should be technical experts in native affairs
20 that will be drawn upon it as well. I would think
21 anything that's relevant to the construction of that
22 plan should be gathered at the preplanning stage by
23 both the plan author and the district manager.

24 Q. Well, the way I read your preplanning
25 system, it seems the responsibility is with the

1 district manager and the plan author are quite
2 distinct, so that the district manager is going to be
3 the one who is responsible for gathering information
4 about the non-timber component -- sorry, the timber
5 component of non-timber resources and the plan author
6 will deal with the timber resource?

7 A. Madam Chair, Ms. Kleer is quite
8 correct. What we attempted to do in structuring this
9 was to design a process where things would not get left
10 out, and to do that we tried to target specific pieces
11 of information to individuals such as the district
12 manager or the plan author.

13 However, I don't think that relieves
14 either side from the responsibility of taking due note
15 of what should be brought forward.

16 Q. I am interested as to why you broke
17 down the responsibilities that way given Mr. Munro's
18 evidence regarding how successful a time he had with
19 meeting with the native community and dealing with
20 their timber allocation problems.

21 By splitting up those responsibilities,
22 is there not some potential that you are going to lose
23 that level of interaction with the native community as
24 a plan author?

25 MR. MUNRO: A. As I mentioned when we

1 --initially the chief of Grassy Narrows went to the
2 Ministry in terms of identifying an interest in the
3 planning activity and since he wanted to talk about
4 timber allocation Mr. Pyzer directed him to the
5 companies since we were in the best position to talk
6 about it.

7 In my mind that's an ideal way to do
8 business. It ensures that a district manager has the
9 opportunity to have some feel for what the Band or the
10 native community wants and also gives us the
11 opportunity to deal directly with the individuals that
12 we initiated the interest and, as Mr. Innes indicated,
13 we see it really as a splitting of responsibilities,
14 but that is not to indicate that there is no dialogue
15 between the two parties, being the district manager and
16 the plan author.

17 We feel that the advisory structure
18 that's in place will ensure that there is
19 communications occurring at the various levels of
20 planning and that people do have the opportunity to
21 discuss issues, whether they were collected by the
22 district manager or whether it was information
23 collected by the plan author, there was that
24 opportunity for people to say: Could you explain the
25 inter-relationship between those would items, and even

1 though the district manager collected the information
2 and prepared the executive summary, how does that
3 actually relate to what timber management activities
4 are going to occur -- that are planned to occur out in
5 the field. We really see this as a continuous
6 discussion during the plan preparation period.

7 Q. Let's go back to our example of a
8 community where it is a fairly remote community, people
9 don't speak the language of English, they speak their
10 own languages and they have no idea what timber
11 management is.

12 Would you see that it would be useful for
13 a plan author together with the district manager to go
14 out to the community and say: Here is what we plan to
15 do, we are going to gather information from you, and do
16 it that way, to have that level of interaction and --
17 let me stop there. Do you think that is a useful
18 process?

19 A. Madam Chair, what I can see happening
20 in that particular case is the plan author and the
21 district manager prepare their executive summaries and
22 take them to the community. It is nice to talk to
23 people and have something to leave behind that people
24 can look at, and I very much see it as an exercise that
25 we would be asking for, for the particular native

1 community to supply information and to actively
2 participate in the planning process.

3 With regard to the language issue, I
4 think we addressed that this morning and yes, we would
5 see that as being appropriate. If there was a
6 communication problem, then there would be the proper
7 resource people available to ensure there was
8 communication occurring at definitely an understandable
9 level and I think that would be acceptable.

10 Q. Okay. Would those executive
11 summaries be translated into the native language? I
12 know you've talked about notice being given in the
13 native languages, but would you see it appropriate to
14 provide native languages executive summaries?

15 A. Madam Chair, that's something that I
16 can't commit the Industry to right now.

17 Q. Would you see it as useful, apart
18 from the money issue?

19 A. Madam Chair, it's not really a money
20 issue, it's really an issue of appropriateness; is it
21 appropriate to do it in all cases.

22 In some cases it might be more beneficial
23 to have that not necessarily translated in written
24 form, but actually communicated verbally to individuals
25 that have a concern and it's not always more efficient

1 to have something written down. In some cases it would
2 be convenient and more efficient to communicate by an
3 interpreter if that was needed.

4 Q. But I thought it was your evidence
5 the other day that you saw these executive summaries as
6 being something that people could take away, could
7 study, could come back and say: Here is something I
8 have got a concern about it.

9 Now, if you don't do that for a native
10 community will they be entitled to do that?

11 A. I'm not suggesting it wouldn't be
12 done. What I'm suggesting is sitting representing the
13 Industry I can't commit to that until we see it in
14 terms of what it would entail. I don't think that's
15 unreasonable.

16 We would like to see more detail, we
17 would like to see where it would be deemed appropriate
18 and then be able to make a decision at that time.

19 Q. I will repeat my question. I am not
20 asking you to commit on behalf of the forest industry.
21 Let's take you as an example, Mr. Munro, you have to go
22 to a native community that doesn't speak English,
23 wouldn't it be useful from your perspective to have --
24 well, wouldn't it be useful from the native community's
25 perspective that you are going to to be able to come

1 away with something that they can read on their own
2 time and analyse and critically analyse just like
3 someone from an English community of Kenora? Would it
4 be useful?

5 A. If it was appropriate and really if
6 it was a requirement in terms of ensuring that there
7 was some dialogue or dialogue occurring, yes, it could
8 be useful.

9 MR. MARTEL: Can I ask a question. Why
10 would you take that stand? If it is appropriate to
11 have an executive summary in English for an English
12 community to leave behind and for a variety of areas,
13 why wouldn't it be appropriate when you go to a native
14 community to have the same service?

15 MR. MUNRO: Mr. Martel, the problem that
16 I have is that in the native communities that I will
17 deal with most of them do speak English and quite often
18 the people that have a degree of difficulty
19 understanding the English language are usually the
20 elders, and I'm not sure by providing it in their
21 language that that's the most efficient way to do it.
22 It could be to talk to the elders through the
23 individuals that can speak English and can speak their
24 language.

25 MR. MARTEL: Because they couldn't

1 understand the technicality of it or...

2 MR. MUNRO: I think so. You know, I
3 think you have an inherent problem in trying to
4 communicate technical language into a format that
5 people could easily understand. I'm not sure.

6 I'm not an expert in language, but I
7 can't imagine how you could explain the technicalities,
8 what's a MAD calculation, what does it mean, until it
9 is written down. You need some explanation with that
10 as well.

11 MS. KLEER: Q. All right. Let's go to
12 page 20 of the witness statement. Now, in this list of
13 district manager's responsibilities in the list of
14 information you talk about identified and verified
15 values.

16 Now, we asked a question about that in
17 our interrogatories to try and understand the
18 distinction and that's question No. 9 in Exhibit 1272,
19 and we asked:

20 "Please distinguish between identified
21 and verified values and please describe
22 who would verify the values."

23 The answer you gave was

24 "An identified value would be a value
25 that has been identified to MNR by an

1 individual and a verified value is an
2 identified value that has undergone a
3 verification process by MNR and has been
4 accepted by MNR as a value worthy of
5 protection."

6 Now, is this verification process
7 something which OFIA and OLMA have thought of or is
8 this something which MNR has put forward?

9 MR. MUNRO: A. I would have to refer you
10 to the last sentence which has:

11 "Verification of a value could be
12 conducted by a number of persons;
13 however, it must be approved by MNR."

14 Q. What I am asking is, whose idea was
15 this verification process, MNR's or OFIA's, just as a
16 first point?

17 A. I would think it is inherent in both
18 systems that it's not enough to identify a value, but
19 there must be some type of verification process that
20 says to the plan author that: Yes, that is a
21 recognized value and you have to address it as a
22 recognized value. It would be inappropriate to have a
23 process where people simply identified values with no
24 verification.

25 Q. Does every identified value go

1 through this verification process?

2 A. Every identified value would have to
3 go through some type of verification process, yes.

4 MADAM CHAIR: I think we have received
5 evidence in the Ministry of Natural Resources' case
6 that they do verify reported values, but aren't most of
7 those values -- they are physically in place, so
8 verification is in fact going out and taking a looking
9 at them?

10 MR. MUNRO: Madam Chair, under the
11 system, the current system that we operate under, you
12 are quite correct that most of them could be physical
13 values that you could do something with.

14 I think we are finding now that we are
15 getting values that are not physically constrained to
16 one particular spot and I think we are into some
17 changing times where a value can be something that
18 isn't hard, that you can't touch, and when we wrote
19 this that was the type of value we were thinking about
20 in our minds. There has to be some type of process for
21 that verification as well.

22 Initially you are correct, it started off
23 hard, touchable values, but we are moving rapidly
24 towards the identification of values that aren't
25 physically...

1 MADAM CHAIR: For example?

2 MR. MUNRO: Water quality, I guess, would
3 be one that comes to mind. You can identify the entire
4 stream as having a water quality value to it, but to
5 isolate a location other than the entire stream would
6 be very difficult to do.

7 MS. KLEER: Q. So what would be the
8 verification process for that example, water quality?

9 MADAM CHAIR: I think we have heard in
10 the last panel, Ms. Kleer, it would be Dr. Schiefer
11 doing a shoreline inventory.

12 MS. KLEER: Q. Well, with respect, MNR
13 is supposed to to this verification process. Are we
14 going to hire somebody to go and that or what do you
15 see? I just want to get clarification of it?

16 MR. MUNRO: A. We see the verification
17 process as being one that is appropriate and I'm
18 having -- you can't sit and dream up verification
19 processes, because what you need is a value to --

20 Q. All right. Let me give you an
21 example.

22 MR. COSMAN: Perhaps before Ms. Kleer
23 does, I may be able to assist her with respect to
24 paragraph 3 of the two paragraphs she read. The third
25 paragraph says:

1 "The verification of a value could be
2 conducted by a number of persons;
3 however, it must be approved by MNR."

4 So if MNR didn't have the staff or didn't
5 have the archaeologist or didn't have the person who
6 was an expert on native burial grounds or whatever it
7 is, that person could be the person hired, such as Mr.
8 Schiefer, to do the study.

9 MS. KLEER: All right.

10 Q. I guess my question would be
11 something like a native -- a future use identified for
12 a particular area of land or not even a particular area
13 of land, they want to develop a local sawmill and they
14 want to have an allocation of however many cords of
15 wood to keep that sawmill going.

16 Would that be a value that had to go
17 through this verification process?

18 MR. MUNRO: A. Yes, that would be
19 identified as a value.

20 Q. And how would that be verified? How
21 would you see that being verified?

22 A. I guess the first thing that we would
23 look at is, is there in fact a sawmill.

24 Q. It's a future proposal, they have got
25 the building permit. They wouldn't need a building

1 permit, right.

2 A. I guess there would be some
3 verification in terms of, is it a perceived future
4 sawmill or are the foundations poured, do they have the
5 infrastructure in place to accommodate that sawmill,
6 and a host of other things, is there a wood supply
7 available to that sawmill.

8 That's the type of thing that I can see
9 in verification. It would be difficult to verify a
10 value like a future sawmill without going through some
11 of these analytical steps. There would be no point in
12 putting down a sawmill in a native community if there
13 was no merchantable wood within, say, a hundred miles.
14 So that's the type of verification process that I would
15 be looking at.

16 Q. All right. Let's assume that MR goes
17 through this process and says: We don't think this is
18 a value to be verified, you have identified it, we
19 don't agree. What recourse does the native community
20 have under your proposed system?

21 A. Can we assume that the value is
22 identified as part of preplanning?

23 Q. Sure.

24 A. If the value was identified as part
25 of preplanning, it would go to the advisory committees

1 who in turn would look at in and provide input into it,
2 it would go to the general populous for review, it
3 would go to the integrated resource user committee for
4 input and review.

5 At that point, the plan author would be
6 provided with the direction in terms of what values are
7 out there, what guidelines are in place and who the
8 interested people are. If in fact the plan author,
9 through discussions with a native community, could come
10 up with a solution to the proposal in terms of a future
11 sawmill type of approach, that would be incorporated
12 into the plan. It would proceed along and the plan
13 would be produced trying to work with individuals to
14 produce that plan.

15 If in fact there was no recognized value
16 identified in the plan and the native communities felt
17 strongly enough about it, it would go through the
18 enhanced planning process where it would undergo the
19 consideration of alternatives, analysis of those
20 alternatives and an alternative would be selected and
21 the rationale for it.

22 Failing that, the district manager again
23 would make a recommendation on his preferred solution
24 to the problem and if that don't work, I guess it could
25 still go to the bump-up procedure.

1 Q. So, then, if something was
2 identified, a value was identified early on and it
3 wasn't verified, it could still go through the enhanced
4 planning process? Is that what you foresee, even
5 though -- I mean, is it still a value even though it
6 hasn't been approved by MNR after verification process?

7 A. It is quite open that a value that
8 has gone through some type of verification process by
9 MNR and is not considered a recognized value, could in
10 fact come up again and be dealt be through the enhanced
11 planning process, yes.

12 MADAM CHAIR: Is this a convenient time
13 for a break, Ms. Kleer?

14 MS. KLEER: Certainly.

15 MADAM CHAIR: We will be back in 20
16 minutes.

17 ---Recess taken at 3:45 p.m.

18 ---On resuming at 4:05 p.m.

19 MADAM CHAIR: Please be seated.

20 Ms. Kleer.

21 MR. MUNRO: Madam Chair, if it would be
22 helpful to the Board, when we were speaking of values
23 in an abstract sense in terms of a potential sawmill,
24 in discussions with my colleagues we do have an example
25 of how native allocations would be handled.

1 Mr. Suomu has gone through that process
2 in the Wabigoon plan in terms of how do you get an
3 abstract value done to something that's -- that can be
4 obtainable in a plan, and if it would be of benefit to
5 the Board you might like him to explain that.

6 MADAM CHAIR: Is that all right with you,
7 Ms. Kleer?

8 MS. KLEER: That's fine.

9 MR. SUOMU: I would correct you on the
10 term abstract.

11 To give you a little bit history on the
12 Wabigoon Forest, is that we -- the Dryden mill has had
13 a traditional supplied source from various groups over
14 the last 60 to 70 years and one traditional supplier
15 has been the native Bands. I can't give you a date at
16 which they started supplying, about 25 or 30 years ago,
17 25 years ago anyway, the source of wood from the
18 reserves proper.

19 Over the last 15 years, they began to
20 obtain allocations as a part of their economic base
21 from the Dryden Crown unit in which out of that source
22 the Eagle Band -- the Eagle Reserve developed a logging
23 group which has continued for the last 15 years. They
24 have expanded their operation and in terms of we are
25 the main buyer of that wood, they are one of our -- our

1 purchasewood suppliers.

2 As it became evident that the source of
3 wood on the Crown unit adjacent to the reserve itself
4 would not suffice, we began to look elsewhere and
5 modifications were made to the Wabigoon licence in
6 terms of exchanges with the Crown unit to accommodate
7 the native requirements, and over time we have
8 allocations directly in the Wabigoon plan, basically a
9 part of the company plan, which are allocated for both
10 a separate allocation for the Eagle River -- or the
11 Eagle logging group of the Eagle River Reserve -- or
12 the Eagle Lake Reserve, and also an allocation to the
13 Wabigoon Development Corporation, which is the logging
14 activity arm of the Wabigoon Band.

15 So in fact we accommodate both Bands by
16 allocating timber in the five-year allocations, we work
17 with the Bands directly in terms of deciding where it
18 is best and, with their agreement, as to where best
19 those allocations will be made.

20 It goes beyond the Wabigoon plan. We
21 also work in conjunction with the Dryden Crown unit in
22 terms that we work closely with them and the Band has
23 received wood -- they harvest wood from the Wabigoon,
24 from the Dryden Crown and from the reserve lands
25 themselves, so they have a combination of three

1 sources.

2 Depending on the season of the year and
3 the type of wood, in some years the entire allocation
4 has been split between the Crown unit and the company
5 unit, in some years the entire allocation has been
6 taken from the company unit because from an operational
7 point of view this is the right way to go, and in some
8 years it has been taken entirely from Crown unit and in
9 other years it has been split. It is based strictly
10 upon operational consideration, season of the year and
11 the type of wood.

12 So in that sense, the native logging
13 requirements for wood allocations are in fact considered
14 in the company and in the Crown plan.

15 MR. YOUNG: Madam Chair, I can also add
16 some personal experience, if I could.

17 MADAM CHAIR: Mr. Young.

18 MR. YOUNG: Our company just completed a
19 timber management plan in the Armstrong area and we had
20 dialogue with the White Sands Indian Band and they
21 expressed a concern about harvesting allocations in
22 close proximity to their Band. Our staff had numerous
23 meetings with their Chief and members of the Band
24 council and we made provisions in our timber management
25 plan to accommodate really, you know, their concern to

1 harvest timber in close proximity to their reserve.

2 That is one example.

3 I also previously had personal experience
4 in preparation of a timber management plan for
5 Armstrong -- or for our Lake Nipigon forest, which is
6 an FMA. The local Band also -- the Red Rock Band also
7 expressed a concern about harvesting in close proximity
8 to their reserve and we made allocations within our
9 timber management plan to accommodate them.

10 MS. KLEER: Q. You when you say
11 allocations, what do you mean by that?

12 MR. YOUNG: A. We allocated a portion of
13 our harvestable area that would be set aside for them
14 to harvest within the context of our overall timber
15 management plan.

16 Q. And in doing so, you chose an area
17 close to the community or how did you --

18 A. In both cases we dialogued with the
19 Bands and came up with an area that would accommodate
20 their requirements and be in close proximity to their
21 Band, yes.

22 MR. SUOMU: A. I might add, and I will
23 speak on behalf of my Thunder Bay group in CP. They
24 have reached agreement with the Gull Bay Band on Lake
25 Nipigon, which they have a fairly substantial logging

1 operation in place on the Black Sturgeon Forest, and a
2 part of that allocation is actually dedicated to the
3 Gull Bay Band itself and it's a part of the timber
4 management plan for the Black Sturgeon.

5 MR. MUNRO: A. The reason that we
6 provided that clarification is I might have misled the
7 Board thinking that a sawmill is a value, but in fact
8 it becomes a wood allocation issue and it's adopted as
9 an objective in the plan and a clearly stated
10 objective, and Mr. Sumou and Mr. Young have indicated
11 that that is indeed in their plan and that it is a
12 measurable objective and it is dealt with through wood
13 allocation process as opposed to the identification and
14 verification of values.

15 The wood allocation process is dealt
16 through MNR's licensing system and that's in fact how
17 we determine whether it's a third-party licence or how
18 or what the mechanism will be to ensure that there is
19 some recognition of that objective.

20 MS. KLEER: Q. So what you are saying,
21 Mr. Munro, is that the area of concern or the enhanced
22 planning process, whatever you want to call it, isn't
23 the forum in which these kinds of issues would be dealt
24 with, is not the forum?

25 MR. MUNRO: A. That's correct. It's not

1 the forum. The actual planning of the allocation in
2 terms of proposing a plan and how that plan would be
3 carried out would be part of the enhanced planning
4 process and we would do the planning for that wood
5 allocation.

6 Q. Expand upon that just a little.

7 A. I think, in my case anyway, and I
8 think in the other two cases, the timber -- or the
9 forest industry would plan the allocations and go
10 through the process with it in mind, that those
11 allocations are for possibly a third-party and that
12 would show up as an objective in the plan, "x" cunits
13 of cords or cubic meters would be made available to
14 that particular Band. I hope that clarifies it a bit.

15 Q. That's very helpful, thank you.

16 MR. SUOMU: A. I might add one thing.
17 It is not only the forest industry, this is a forest
18 industry planning process which is being proposed, but
19 it would cover all forest management units in which the
20 Crown units are by far the greater number. So the same
21 process could occur.

22 Q. All right. I would like to ask a few
23 questions about the enhanced planning process and what
24 I propose to do is to go through a list of generic
25 native values for which we believe guidelines do not

1 exist, and I would like to have you tell me whether or
2 not you believe those guidelines do not exist, and then
3 answer whether or not the enhanced planning process is
4 a useful process for dealing with that.

5 So I will just go through each of them.
6 First of all, the first value would be an area that's
7 used for subsistence hunting and trapping and fishing.
8 Perhaps we could deal with each of those individually.

9 Are there guidelines that exist for an
10 area used for subsistence hunting?

11 MR. MUNRO: A. There is no guideline for
12 that.

13 Q. So if an area were identified during
14 the course of the plan -- preplanning or plan
15 production phase, that would be subject to enhanced
16 planning because there are no guidelines?

17 A. I guess what would have to happen in
18 that particular case is the value would have to again
19 go through some type of verification process and be
20 recognized as a value by MNR, and the plan author would
21 be instructed to plan with that recognized value in
22 consideration.

23 If it indeed was a recognized value and
24 there was no guidelines, we have stated that where
25 there is no guidelines we would go through a

1 documentation process, not necessarily the enhanced
2 planning process, but some type of documentation
3 process where we would indeed look at the alternatives,
4 analyse the alternatives, put in some mitigative
5 measures and justify the selection of the preferred
6 alternative.

7 The inherent problem is the verification
8 of the value and that's something that clearly rests
9 with MNR, to identify what the recognized values are.

10 Q. Would the same be true of a
11 subsistence area used for trapping, and in talking
12 about that I'm talking about trappers cabins, trapline
13 trails and the trap line management area?

14 Are there guidelines that exist to deal
15 with those -- to deal with the subsistence
16 harvesting -- sorry, subsistence trapping by a native
17 community?

18 A. Specific guidelines are intended to
19 protect those, they are values. Again, we don't have
20 them as part of our guidelines. At the same time, we
21 don't have guidelines to protect or consider private
22 property, but we do identify it wherever possible as a
23 a value; i.e., an outpost camp is usually identified as
24 a value.

25 Q. But then doesn't that go through

1 enhanced planning, that's my question?

2 A. I guess I'm having some difficulty.

3 If you have an outpost camp and that's located on the
4 map as a value, okay, and you have a trappers cabin
5 that's located on the map as a value, I'm not sure that
6 you need guidelines for the protection of either one of
7 those.

8 Q. Sorry, I didn't catch your last
9 point.

10 A. I'm not sure that you would need
11 guidelines to protect either one of those.

12 Q. All right. I'm not saying that you
13 need them, what I'm saying is if -- you are agreeing
14 there are no guidelines and, therefore, I thought by
15 your evidence that would have to go through enhanced
16 planning.

17 If it were a value that were identified
18 and, in your evidence, verified, it would then have to
19 go through enhanced planning process because there was
20 no prescription that could be chosen or taken out of a
21 guideline.

22 A. I wouldn't suggest that there be
23 guidelines entitled Guidelines for the Protection of
24 Trappers' Cabins.

25 Q. But no guidelines exist. I'm not

1 asking whether guidelines should be produced, I'm
2 asking whether or not because there are no guidelines
3 that is the type of value that would have to go through
4 enhanced planning?

5 MR. FRY: A. Perhaps I can answer that.
6 In that particular case it would not go through the
7 enhanced planning process. What would happen would be
8 that that trapline/cabin would be identified on the
9 values map, that value -- that cabin location would be
10 transferred to the operating map, as shown there, and
11 in consultation with the person that has identified
12 that value, the plan author would develop a
13 prescription which would be noted on the map as being
14 one for which there are no guidelines available. It
15 would be further identified in Table 5B and further,
16 the documentation would be contained within the
17 supplementary documentation.

18 Just as a point of clarification for the
19 panel members. I wonder if you could let us know -- or
20 describe for us, define for us the difference between
21 subsistence hunting and hunting and subsistence fishing
22 and fishing.

23 Q. I'm talking about where it is done
24 to -- for the members of the community to -- it's like
25 growing your own vegetable garden, you use it for your

1 own use.

2 A. Okay.

3 Q. All right. Again with respect to --
4 so let me just get this clarified, then.

5 A value for which no guideline exists but
6 which is identified will have a prescription developed
7 and there will be supplementary documentation for that
8 particular value because no guideline exists, and it
9 will show up in Table 5B, but it doesn't through
10 enhanced planning unless someone were to say: I don't
11 like the prescription you have developed, plan author,
12 therefore they ask for this enhanced planning process.
13 Is that a fair summary?

14 MR. MUNRO: A. That is correct.

15 Q. All right. Then perhaps I can just
16 run quickly through the other examples to see whether
17 or not guidelines exist for those and just for the
18 Board to have this in front of them.

19 Berry picking areas, do guidelines exist
20 to protect them?

21 MR. MUNRO: A. No.

22 Q. Sites that are used for the gathering
23 of medicinal herbs and other herbs that are used by the
24 community?

25 A. No.

1 Q. Areas that are projected for use for
2 fuel wood and sawlogs or are presently used for fuel
3 wood and sawlogs by the community, apart from a local
4 sawmill?

5 A. No, but that is dealt with, as we
6 explained, through the wood allocation process.

7 Q. Fuel wood as well?

8 A. Yes.

9 Q. Potable water sources used by a
10 community?

11 A. No.

12 Q. No guidelines?

13 A. No guidelines.

14 MR. FREIDIN: I'm sorry, could both of
15 you speak up a little bit, I am have difficulty.

16 MS. KLEER: All right.

17 Q. My last point was whether or not
18 potable water sources had a guideline. Mr. Munro, your
19 answer was...

20 MR. MUNRO: A. There are no guideline
21 for potable water sources.

22 Q. All right. And there would --

23 A. Protection of potable water sources.

24 Q. And there would no guideline
25 applicable to lands that were required or desired for

1 economic or capital development by a native community?

2 A. There is no guidelines available for
3 protection of potential economic developments.

4 Q. All right. In your opinion, then,
5 given that there are these substantial numbers of
6 values for which no guidelines exist that are
7 potentially applicable to a native community, and those
8 are community based types of concerns and values, would
9 it be reasonable to have a separate planning process,
10 apart from the processes you have identified, apart
11 from the advisory committees, which would take that
12 information and use it in the timber management
13 planning process?

14 A. No, I wouldn't suggest that's
15 appropriate. We could just go through each of those
16 and we could explain how we would deal with those
17 particular circumstances within our planning process
18 system, if it would be helpful.

19 Q. Well, I guess -- let me just ask you
20 the more general question. Why wouldn't it more
21 appropriate, and if you have to go through each of the
22 values, do that, but if you can give me a general
23 answer that would be preferable?

24 A. I think our process will accommodate
25 those areas that you have identified, at the same time

1 allow us to plan timber management activities.

2 Q. But if you have a situation as we
3 have discussed, the hypothetical example, and you have
4 a community that just doesn't -- or doesn't have the
5 facility because of language, because of distance to
6 come out to participate in an open house, wouldn't it
7 be more appropriate for the planner, the plan author
8 and perhaps the district manager as well - we will just
9 deal with the plan author - to go out and get that
10 information from the native community, rather than
11 requiring them to come in and identify it in a process
12 that would be very difficult for them to function in?

13 A. Madam Chair, I have indicated that a
14 native community, if it is in the area of the planning
15 or adjacent to it, that is interested in the planning
16 activities, it is quite possible that there would be an
17 information centre held in that community and
18 information could be solicited from that community on
19 those items that you mentioned.

20 Q. All right. I will just go on to a
21 few little points. First, I think this is for Mr.
22 Innes with respect to the local technical group.

23 Now, you stated in your evidence that
24 these technical experts for this local group need not
25 necessarily come from MNR and I believe you said that

1 you could see instances where, if it was a matter of
2 concern to a native community, that a member of that
3 native communities could sit on that technical group.
4 Is that a correct summary of your evidence?

5 MR. INNES: A. That is quite correct,
6 Madam Chair. As a matter of fact, we answered an
7 interrogatory on that one and gave an example, I
8 believe, in terms of medicinal plants and suggested
9 that it would be appropriate for a member of the native
10 community, who was an expert in that specialized field
11 of knowledge, to be a part of the technical committee.

12 Q. Would you see situations where
13 someone from the Ontario Native Affairs Directorate
14 would be called upon to sit on such a technical group
15 for what are not hard, identifiable on-the-ground
16 values like medicinal herbs, but would be a more
17 generic native concern that couldn't be isolated to an
18 on-the-ground type of value?

19 A. The purpose of a technical group,
20 Madam Chair and Mr. Martel, is to provide expert advice
21 to the plan author and the expert advice is required,
22 either in the mind of the district manager or in the
23 mind of the plan author or in the mind of people who
24 are making input to this, and it will be so identified.

25 I would suggest it is in the district

1 manager's interest on behalf of the people he or she
2 represents to obtain that technical advice and to have
3 that type of person sit on the technical committee.

4 Q. So is your answer then that someone
5 from ONAD, from Ontario Native Affairs Directorate, if
6 there were a technical area they could address, could
7 be drawn upon to sit on this technical group?

8 A. Madam Chair, I have no knowledge
9 whatsoever of what the technical capabilities of the
10 people from that organization would be.

11 What I am saying is, if technical advice
12 is required, the Ministry of Natural Resources must go
13 to whatever place it resides and obtain that technical
14 advice. Should it be ONAD, I believe you said--

15 Q. Yes.

16 A. --that would be perfectly acceptable
17 if that's the repository of technical advice.

18 Q. All right. Mr. Fry, I have a few
19 questions about plan production. At the open house
20 after the plan production stage--

21 MR. FRY: A. Is this the second
22 information stage?

23 Q. July 15.

24 A. Okay.

25 Q. Would you agree with me that a native

1 person speaking only or speaking primarily a native
2 language would not be likely to show up at public
3 meetings where notices were in English and where the
4 information that was going to be available at this open
5 house would not be in the native language?

6 A. Let me see if I understand your
7 question. You are referring to a native, a person who
8 speaks a native language only?

9 Q. Or primarily, he had broken English.

10 A. I guess that would be a possibility.

11 Q. Would you see at the open house at
12 this point a role for a native interpreter if it were
13 identified beforehand that such people wanted to come
14 forward?

15 A. If we knew that there was someone
16 that wished to come forward in that situation, I would
17 think it would be a very valuable thing to have.

18 Q. Mr. Suomu, in the amendment process,
19 is it your opinion that if a native community is to be
20 effected by a proposed plan amendment, whether it be
21 classified minor or mayor or administrative, that they
22 should be consulted in the determination of the
23 significance of that amendment?

24 MR. SUOMU: A. I think it's inherent in
25 the district manager's final decision to basically

1 consult with the community, yes. I don't see how else
2 he or she could make that determination.

3 Q. Now, you have also said that where a
4 public input warrants it a minor amendment would be
5 changed into or reclassified as a major amendment and
6 that decision would be made by the district manager; is
7 that correct?

8 A. That's correct. Our planning process
9 in terms of processing amendments is outside of the
10 initial 15 or -- our 15-day determination category is
11 identical to that of the MNR, and that the district
12 manager is the one who makes the final determination.

13 Q. Okay. Now, you've talked about
14 certain criterion; i.e., where the public input
15 warrants it it could be changed.

16 Now, would you agree with me that another
17 criterion that you can use to make that shift from a
18 minor to a major would be where the significance of
19 that effect -- sorry, of that amendment on the user
20 group would be potentially, fairly significant?

21 In other words, should significance of
22 the impact on a user group of that proposed amendment
23 be a criterion?

24 A. I believe that is one of the criteria
25 for the classification of amendments.

1 Q. At present?

2 A. Yes, it is.

3 Q. As per your evidence?

4 A. Yes, it would be.

5 Q. Is that something other than where a
6 public input warrants it or are you saying those two
7 are synonymous?

8 A. You will have to rephrase the
9 question, I don't understand it.

10 Q. Okay. The way I read your evidence,
11 you said that where public wanted to -- one of two
12 situations. Where public input warrants it or where
13 the intent of the plan would be changed, you would have
14 a major amendment classification.

15 What I am saying is, is significance of
16 the impact on the user group a different criterion from
17 either of those two criterion?

18 A. No, I believe it would be similar to
19 the...

20 Q. Similar to...

21 A. If you could repeat the two criteria.

22 Q. One, where public inputs warrant it;
23 two, where the intent of the plan would be changed.

24 A. It would be the first.

25 Q. Okay. So you are saying those two

1 are the same things, significance of the effect and
2 where public warrants it are synonymous?

3 A. Yes, I think both of them have a
4 bearing on the decision regarding the significance of
5 the amendment.

6 MS. KLEER: Okay. I am going to get into
7 my final area of cross-examination with respect to each
8 of the three advisory committees at this point and I
9 just want to make an opening comment.

10 It will be NAN's position that they do
11 not support having NAN or Windigo sit on these advisory
12 committees because of the types of concerns that I will
13 try and bring out on this cross-examination.

14 Q. Now, first with respect to the senior
15 level policy committee, and I believe my questions will
16 go to you, Mr. Innes. In preparing your evidence, did
17 you review the existing processes for provincial level
18 policy development for native affairs?

19 MR. INNES: A. Madam Chair, we did not
20 review that specifically for native affairs.

21 Q. So, then, you didn't determine
22 whether the existing processes were or were not
23 effective for a native organization to have its input
24 on timber related policies; is that correct?

25 A. That would be correct, Madam Chair.

1 Q. All right. I would like to look at
2 NAN interrogatory No. 3 in Exhibit 1272.

3 MADAM CHAIR: Is that interrogatory No.
4 3, Ms. Kleer?

5 MS. KLEER: Yes, Madam Chair. The
6 question was with respect to comments at page 10 about
7 the senior level policy committee:

8 "Please provide a list of the provincial
9 policies affecting native affairs which
10 influence or are impacted by the
11 management of the timber resource."

12 And the answer was:

13 "The forest industry does not have a
14 complete list of provincial policies
15 which influence or are impacted by
16 the management of the timber resource.
17 Within the MNR term and conditions, the
18 forest industry would anticipate that the
19 policies reflected in the guidelines and
20 manuals for timber management, as
21 outlined in term and condition No. 40,
22 would have the potential to affect
23 residents within the area of the
24 undertaking including native peoples."

25 So would you confirm, Mr. Innes, that the

1 forest industry doesn't have a complete list of such
2 provincial policies affecting native affairs which are
3 influenced or are impacted by timber management?

4 A. That is quite correct, Madam Chair.

5 Q. Now, why wouldn't you have that kind
6 of information if you work with native communities, not
7 you personally, but the Industry, because we are
8 talking not about all provincial policies, we are
9 talking about those that are influenced by or are
10 impacted -- sorry, which influence or are impacted by
11 the management of the timber resource?

12 A. Madam Chair, that's a very difficult
13 question to answer. It's like asking why the forest
14 industry generally does not have a complete library of
15 all laws, statutes and regulations that might impact
16 upon it and the fact is I don't think any of us do.

17 We result -- we resort to those sources
18 of information when a need arises to obtain such
19 information. Speaking for my own company, we certainly
20 do not have a list or a compendium of all provincial
21 policies affecting whatever in the forest and I would
22 suggest we would consult where necessary.

23 So I am having great difficulty in
24 answering your question, Ms. Kleer, in generalities.

25 Q. Well, you would agree that you don't

1 know what the policies are and you are certainly not
2 intimately familiar with them; is that fair?

3 A. That's a fair statement, Madam Chair.

4 MR. COSMAN: That is apart from the ones
5 that are specified where there is a whole lot of
6 policies that affect native peoples and that is part
7 two of that answer. You are excepting those?

8 MS. KLEER: Yes.

9 MR. COSMAN: All right, I am excepting
10 those.

11 MR. COSMAN: All right.

12 MS. KLEER: Q. Now, just looking, then,
13 at those other provincial policies, such as - and I
14 will give you an example - the policy on native
15 self-government which would have some influence on how
16 native communities would want to interact with -- or
17 see themselves interacting with the forest industry.

18 Would you agree that a native community,
19 before it would -- let's not say a native community,
20 let's say a native organization, would consider or
21 would want to know, before considering whether or not
22 they should sit on this senior level policy committee,
23 that the other members that were going to sit on this
24 senior level policy committee would have at least some
25 idea of what it was that they were going to discuss,

1 because otherwise wouldn't it mean that the native
2 organization would be there to educate with respect to
3 a very complex policiy that's been developed over years
4 and years of time and negotiation with the provincial
5 government, say?

6 MR. INNES: A. I would suggest, Madam
7 Chair and Mr. Martel, that one of the greatest
8 difficulties we have in any type of management is a
9 lack of understanding between the various parties of
10 what's important, first of all; and, secondly, what's
11 achievable in terms of having something done.

12 And the intent of asking the various
13 groups to sit on the three levels of committee was to
14 take away some of the mysticism, some of the lack of
15 understanding, some of the mistrust which is bred by
16 that, by having dialogue between the groups so that
17 their interests are genuinely put forward and a
18 solution and common course of action can be
19 entertained, at least in discussion in an open forum.

20 This is the value of these groups, and to
21 that end I would certainly hope that native people
22 organizations would be prepared to participate because
23 obviously they have a lot to contribute to this.

24 Q. Well, this committee is going to sit
25 how often during the course of -- or a member of the

1 committee would sit how often, four to five times per
2 year over three years? That is certainly my
3 recollection, is that what you anticipate?

4 A. We have suggested for the senior
5 level policy committee that there would be quarterly
6 meetings, Madam Chair.

7 Q. How long do you see these meetings
8 going on, any idea?

9 A. No, Madam Chair, I have not worked
10 out what the timetable would be or how the structure of
11 the events would be scheduled for this.

12 Q. Well, if you have got -- or if a
13 native organization sits on this committee and they
14 have got a number of fairly complex policies, it is
15 going to take them quite a while to communicate this
16 and have people truly understand the nature of those
17 policies and the whole history behind the development
18 of and the working out of those policies; would you
19 agree?

20 A. I would agree that could be a time
21 consuming process, yes.

22 Q. And presumably the other groups that
23 are going to sit on this committee are going to have
24 their own provincial policies that they may know far
25 better than anybody else sitting on this committee and

1 they are going to have to do the same level of
2 education, shall we say, of the other committee
3 members; is that correct?

4 A. Madam Chair, what we suggested was
5 that this senior level policy committee be chaired by
6 the Deputy Minister of Natural Resources and that, in
7 fact, MNR act as a secretariat for this group and bring
8 to it an explanation of the policies which are
9 dependent upon the forest resource, and to that extent
10 there would be a lot of background work, in our
11 estimation, done on behalf of this committee which I
12 would hope would get the issues on the table fairly
13 quickly and allow for a reasonable ready understanding
14 of where the existing policies are, how some of the
15 interactions would take place and allow input in a
16 structured format by the representatives of the various
17 organizations.

18 So it was not our intent that the
19 individual organizations would have to bring to the
20 committee a whole history of where they come from and
21 try to explain the evolution over the last ten years of
22 policies, plans and whatever it may be.

23 MR. MARTEL: Are you not better off
24 having everyone there to present their views than to
25 have people absent because then in fact your views

1 aren't presented at all?

2 MR. INNES: Mr. Martel, I couldn't agree
3 more. I am convinced in my mind that the biggest enemy
4 we have to progress is a lack of understanding and
5 everybody's points of view and the lack of
6 understanding of just how much cooperation is possible
7 in an integrated fashion, and a lot of our problems
8 disappear when we get together and discuss these
9 things.

10 So to that end, I couldn't agree more
11 that we need people there to take part in this
12 discussion.

13 MS. KLEER: Q. Does the success of this
14 committee entail the membership, who are affected by a
15 particular policy, accepting that policy and agreeing
16 with it? The provincial policy.

17 MR. INNES: A. That would be a -- could
18 be one criterion of success. I would suggest it is not
19 the only one, Madam Chair.

20 I would suggest the success of the
21 committee can be evaluated in terms of working
22 relationships which were developed between the various
23 groups and the greater understanding they could have
24 and, therefore, the cogent advice they can offer to the
25 Minister of Natural Resources in the shaping and the

1 modification of policies as required to better get on
2 with the job of integrated resource management.

3 Q. Well, you mentioned modification of
4 these policies. Some of these provincial policies,
5 native affairs, for instance, are Cabinet approved
6 policies.

7 Are you suggesting that what's going to
8 happen at this committee is that members of various
9 organizations, and in this case let's say NAN were
10 there, that NAN person could say: We don't like this
11 provincial policy and we want to see it changed, and is
12 that really a forum that you see for discussing change
13 of policy, Cabinet approved policy?

14 A. It's one form of public input, Madam
15 Chair, to the management of the timber resource. Do
16 not forget here, Ms. Kleer, that we are talking about
17 timber management and that's a subject of this hearing,
18 and what we are trying to do is to have timber
19 management policies and the timber management component
20 of the other resource management policies put together
21 in a way that is workable and put together in a way
22 that reflects societal needs.

23 So, no, I would not think that the --
24 this group would have any discussion whatsoever on the
25 policy of self-government of native people, but what it

1 might be able to do, for example, in my mind, would be
2 to more accurately reflect the need for the allocation
3 process which reflects the need of native people in
4 determining self-government in a way which is
5 contributory to their local communities, for example,
6 such as Mr. Suomu talked about in his planning process.

7 MR. MARTEL: Mr. Innes, though, if the
8 Deputy is there who - the man is appointed by the
9 Premier - has a great deal to do with the formulation
10 of any policy, don't you envisage that they could
11 discuss things which in fact form the basis of a
12 recommendation that then find its way to the Cabinet
13 table in terms of a whole variety of issues, not just
14 involving the native people, but other things that
15 various groups might bring forward?

16 MR. INNES: Mr. Martel, it goes back to
17 our comments a little while back, and I think it was
18 that brought it up, was that the exchange of
19 information is extremely valuable and there are many
20 inputs into policy determination and that could well be
21 the mechanism -- or the one mechanism that you just
22 spoke of could be extremely valuable.

23 MR. MARTEL: But I think you are
24 underselling the value of the Deputy being there who,
25 in fact, influences most, if I dare say it, most

1 policy that government introduces. The Deputy carries
2 a great deal of weight.

3 MR. INNES: That was precisely, sir, why
4 we suggested the Deputy Minister chair this committee
5 because we are talking about working at the most senior
6 level we can within government in this case.

7 MS. KLEER: Q. On what basis did you
8 conclude that this senior level policy committee would
9 have a mechanism that NAN, Windigo Tribal Council or
10 any other native organization felt was an effective
11 means for them to communicate their concerns with
12 respect to timber management?

13 MR. INNES: A. The basis, Madam Chair,
14 was -- there is at the moment, to the best of my
15 knowledge and to the knowledge of the committee here,
16 no centralized place in the province where policy level
17 discussions from interest groups, from senior people
18 within those interest groups can take place within a
19 forum which addresses what happens in the forest as an
20 entity.

21 Certainly there is a Parks Council, I
22 understand there is a Wildlife Council, there are
23 interest group representations to government, et
24 cetera, but there is no place in a structured fashion
25 where people sit down and try and exchange ideas and

1 try to advise government on what on an integrated basis
2 what takes place for policy development as it affects
3 the forest resource as an entity, and particularly in
4 this case how it affects the timber management
5 component of the forest resource.

6 It is on that basis, of having input from
7 the many groups at a very senior level in the hope that
8 it will provide cogent advice, that we structure this
9 committee.

10 Q. Did you consult any of the native
11 organizations I've mentioned to determine whether or
12 not they felt this was an appropriate process?

13 A. No, we did not, Madam Chair.

14 Q. I believe your evidence was that you
15 felt that there would be people out there who would be
16 willing to sit on these committees.

17 How could you reach that conclusion if
18 you didn't consult with, in this example, native
19 committee -- or, sorry, native organization
20 representatives?

21 A. It was very easy to reach that
22 conclusion, Madam Chair, because of the level of
23 interest that the members of the planning committee
24 that encountered at a regional and a district level in
25 dealing with native communities.

1 In my particular case, my company deals
2 with the Gull Lake Band, just to the west of the forest
3 management agreement, and as the others have indicated
4 around the table, we got very good cooperation and
5 great interest in dealing with them in terms of
6 recognizing some of their concerns in the management
7 planning process, and you have heard testimony today of
8 other people in the same process.

9 We see a need for input and we see
10 dialogue as being an appropriate way to recognize this
11 and unless my colleagues are terribly mistaken, we see
12 a readiness to participate in these committee
13 structures that we've set up to do that, as it
14 recognizes and provides a forum to have native people,
15 as well as other people's concerns taken into
16 consideration.

17 Q. Well, who do you see sitting on this
18 committee from a native organization? I mean, is it
19 people that you deal with in the field? Presumably it
20 has to be someone who is representative, is that
21 correct, who acts as a representative?

22 A. That is correct, Madam Chair.

23 Q. Well, are you suggesting, then, that
24 as a representative that person would be required to --
25 sorry, let me rephrase it.

1 If that representative of a native
2 organization - and we will choose NAN for an example -
3 were to be required to, because of community politics,
4 native community politics, go back to all the native
5 communities upon whose behalf that representative was
6 acting, wouldn't that be a pretty strenuous and onerous
7 process for that representative, and would there be
8 funding and backup to support that kind of interaction
9 in order for this person to act as a representative?

10 A. Madam Chair, we suggested in response
11 to Mr. Martel's question yesterday, I believe it was,
12 that it would be appropriate for the Minister of the
13 Natural Resources to approach an organization, such as
14 NAN, and ask for a representative to be named by them
15 and would be appropriate at that senior level policy
16 committee.

17 I would suspect, Madam Chair, that if NAN
18 in its wisdom decided that they could not supply a
19 representative, it was inappropriate for them to do so,
20 I would hope that in their wisdom they would also make
21 suggestions as to how that could occur, as the intent
22 of that committee is to garner input under whatever
23 fashion is most appropriate for that organization or
24 other organizations, if it is beyond NAN to do that.

25 In response to the second part of the

1 question, we were suggesting that there be travel money
2 provided for attendance at meetings and then
3 remuneration for the day spent at those meet meetings
4 and we left it at that point.

5 I do not know what the wish of the
6 Ministry would be if they went beyond, if there were
7 necessary field trips to go beyond that point.

8 Q. But would you agree that if that were
9 required, because of the nature of the organization
10 that was putting forward a representative, that they
11 couldn't effectively do that kind of work and sit on that
12 committee unless they had that kind of backup to do the
13 work that would be required of them as a representative
14 of the communities?

15 A. Maybe, Madam Chair. On the other
16 hand, there should be -- I am not intimately familiar
17 with native organizations, but there could be somebody
18 from in NAN, from OMAA and from whatever other ones
19 that represent a number of areas of broad policy to
20 work at that level.

21 We are talking about a policy level,
22 Madam Chair, and surely there are policies which are
23 common amongst the organization as large as NAN, I
24 would think, and of course they could speak with sort
25 of -- to represent at least your constituents within

1 your membership.

2 Q. So you've said now that you are not
3 particularly familiar with native organizations, so you
4 then haven't considered how this process would work for
5 the native organizations, you haven't chosen or thought
6 of who should sit on this organization and you haven't
7 gone to that level of planning; is that correct?

8 A. What we have suggested, Madam Chair,
9 on page 10 of our evidence, is that membership from at
10 least the following organizations, and it would
11 certainly be open to the discretion of the Minister of
12 Natural Resources to expand that in any form considered
13 advisable, so representation is adequate and is in fact
14 represented.

15 In that respect, I would hope that the
16 native peoples would be adequately represented at that
17 level.

18 Q. My last question before we break is,
19 why should a representative of any native organization
20 be willing to and agree to sit on this committee if
21 they have other avenues of provincial level policy
22 development that they feel their concerns could better
23 be raised in?

24 A. I would think, Madam Chair, that
25 would be a choice of that organization and in their

1 response to the Minister's invitation they would lay
2 that forward.

3 MS. KLEER: All right. That is an
4 appropriate point for me to break off, Madam Chair.

5 MADAM CHAIR: Thank you, Ms. Kleer.

6 Are you finished your cross-examination?

7 MS. KLEER: I will probably have an hour
8 and a half more to go tomorrow.

9 MADAM CHAIR: All right. We will start
10 with you at nine o'clock tomorrow morning, then.

11 MS. KLEER: . Thank you.

12 MADAM CHAIR: Thank you, gentlemen. You
13 can be excused for the day unless you want to stay for
14 our procedural discussion. We will see you in the
15 morning at nine o'clock. Thank you.

16 MS. SWENARCHUK: Good afternoon, Madam
17 Chair, Mr. Martel. I've passed out copies of
18 correspondence received by Forests for Tomorrow with
19 regard to the Pearse Commission just so that I will
20 have convenient copies to what I am referring to.

21 I think the terms of reference for Dr.
22 Pearse had been provided to Board beforehand. I am not
23 sure whether you received copies of the same covering
24 letter that I think various parties had received.

25 MADAM CHAIR: Yes, we did, Ms.

1 Swenarchuk.

2 Before we begin, I am not sure if Mr.
3 Lindgren reported to you the objections of counsel to
4 this meeting this evening. I think it was Mr. Cosman
5 and Mr. Freidin who dispute whether the letter you sent
6 last Friday was a formal Notice of Motion to have
7 submissions from all parties on this matter. It was
8 unclear to the Board certainly what specifically you
9 wanted to talk to us about with respect to Dr. Pearse's
10 appointment.

11 However, the Board's position is that we
12 would certainly listen to you tonight with respect to
13 what you wanted to ask the Board about with your
14 submissions. We wouldn't decide anything this evening
15 and if it is a matter of all parties making
16 submissions, then we will get another date to hear the
17 submissions of everyone.

18 MS. SWENARCHUK: Very well. Madam Chair,
19 to incapsulate briefly and I think this had been
20 conveyed to Mr. Cosman --

21 MR. COSMAN: Nothing has been conveyed to
22 me.

23 MS. SWENARCHUK: By Ms. Seaborn?

24 MR. COSMAN: Oh, about an hour and a half
25 ago she mentioned briefly to me that it has something

1 to do with -- in two words. I forget what it was, but
2 I don't know what you are asking the Board.

3 It has not been communicated to me what
4 the Board is being asked to do.

5 MS. SWENARCHUK: We are raising the issue
6 before the Board today, Madam Chair and Mr. Martel,
7 because it is our view that this process being
8 established by the Ministry raises a question as to the
9 continuing role of the Board in determining what, in
10 our submission, has always been forest policy for
11 Ontario.

12 Specifically I am going to ask that the
13 Ministry once again be asked to clarify specifically
14 what is the difference between timber management policy
15 and planning and forest policy for the province.
16 That's the request I am going to make, and if I can
17 proceed with my submissions I will indicate to you why
18 we are requesting that.

19 MR. COSMAN: Madam Chair, I would renew
20 my objection. I have certainly no difficulty with my
21 friend stating here today, with the absence of the
22 Notice of Motion, what it is that she is asking the
23 Board to do, and I am not quite sure. I guess she is
24 asking the Board to direct the MNR to do something.
25 That's what I understand.

1 This is the first inkling I have that
2 that is what is being sought. If there are submissions
3 to be made, then certainly I agree with the procedure
4 that you have suggested, that a date should be set so
5 the parties can go back and obtain instructions and
6 come here and be prepared to deal with that, but to
7 have one party make submissions while other parties are
8 not prepared to do so and haven't had the opportunity
9 to consider the matter with their client, that would be
10 exceedingly unfair.

11 MADAM CHAIR: I think the Board made it
12 clear yesterday or the day before, Mr. Cosman, that
13 until we know whether we want to hear argument about a
14 matter we have to hear what the matter is.

15 MR. COSMAN: As long as we don't have a
16 one sided argument before you under the guise of
17 stating the definition of an application. That's what
18 my objection will be.

19 MADAM CHAIR: We trust you not to let
20 that happen.

21 MR. COSMAN: Thank you.

22 MS. SWENARCHUK: We certainly would not
23 intend to raise an issue that other parties would not
24 have an opportunity to comment on, Madam Chair.

25 Our purpose in raising it today is simply

1 the fact that the Board is adjourning for the break at
2 the end of this week and Dr. Pearse will be completing
3 a certain stage of his work between now and the end of
4 July.

5 In any event, Forests for Tomorrow
6 indicated in its opening statement to the Board its
7 concern with the unilateral change of the name of the
8 undertaking from forest management to timber
9 management, despite the wording of exemption 11/9 under
10 the Environmental Assessment Act for the Ministry which
11 is phrased in terms of the need for the Ministry to
12 produce an environmental assessment on forest
13 management.

14 As we said then, we agreed to proceed
15 with the hearing rather than contest that change
16 because we considered that it was preferable from the
17 perspective of the public interest that a public
18 hearing ensue and because we were confident that, given
19 the broad definition of environment contained in the
20 Environmental Assessment Act and our view of the
21 environmental impacts of timber management, that in
22 fact the Board would be charged with the duty of
23 considering impacts of forest management overall.

24 Now, I would just like to recall for a
25 moment some of the subject areas that the Ministry

1 included in its case, all of which, in our view, are
2 subjects properly within the ambit of forest policy for
3 the province. In Panel 1, you will recall discussion
4 of the integration of other resource values in timber
5 management, IRM policy which is at page 242 of Panel 1
6 witness statement; Panel 5, on economic impacts of the
7 Industry; Panel 6 and many subsequent panels concerned
8 with fisheries, wildlife, landscape and waters, parks,
9 areas of natural and scientific interest,
10 socio-economic environmental impacts, stakeholders such
11 as commercial, recreational, local and traditional
12 users, the general public and native people; and then
13 Panel 7 saw a discussion of data collection for these
14 issues and these issues have continued to be discussed
15 throughout the hearing.

16 We can think for moment of the days or is
17 it weeks of evidence that the Board has heard with
18 regard to, for example, wildlife management, fisheries
19 issues, and we note too that the case presented by the
20 Industry and its proposed planning method also assumes
21 that the discussion here involves all of these issues
22 and, therefore, we have been concerned in looking at
23 the terms of reference provided with regard to the
24 inquiry Dr. Pearse is to conduct.

25 If we just look at schedule A, the third

1 page of the handout, he is to consider -- starting in
2 the second line of the first paragraph.

3 "This integrated forest policy must
4 accommodate and will reflect the wide
5 range of opportunities and interests that
6 exist in the forest estate including the
7 integration of social, economic and
8 environmental values."

9 In our submission, Madam Chair, Mr. Martel, that is
10 precisely the issue before this Board.

11 Then in the next paragraph we see that:
12 "Preliminary to this initiative is a need
13 to identify the range of issues to be
14 encompassed by the policy and the most
15 effective mechanisms for developing it."
16 And on the next page and under paragraph

17 A, he is:

18 To provide advice to the Ministry of
19 Natural Resources about..." the third

20 line down,

21 "...an integrated forest policy statement
22 in the context of sustainable development
23 principles..." et cetera.

24 Now, we are not at all reassured by the
25 second last paragraph in the letter, this is on the

1 second page of the handout, the letter from the
2 Minister to Forests for Tomorrow in which she
3 indicates:

4 "I want to emphasize that this policy
5 review will not duplicate or pre-empt the
6 on-going environmental assessment dealing
7 with timber management. Industrial
8 timber production, however it may be
9 affected by EA proceedings, is one aspect
10 of forest policy which needs to be fitted
11 into an overall forest strategy for
12 Ontario, the design of which will be
13 taken through this new initiative."

14 Now, it is our submission, Madam Chair,
15 that there is essentially a complete overlap in the two
16 processes; that if the forest policy review intends to
17 do what we expect to have completed here, we are very
18 concerned.

19 We can just think of two examples of
20 ongoing initiatives in the Ministry, which we hoped to
21 hear more of in this case; that is, the development of
22 a new timber production policy which, in our view,
23 given the Ministry's evidence with regard to wood
24 supply, should be properly returned before the Board
25 for consideration; and, secondly, the new initiatives

1 that we are aware of with regard to wildlife
2 management. This also, in our view, should be returned
3 to this Board and, for example, any initiatives, some
4 are now being discussed, with regard to formation of
5 policy re old growth forests. Those are also, in our
6 view, matters properly before this Board.

7 Now, our concern is not limited only to
8 those two policy areas, but to the full range of issues
9 before the Board, all of which, in our view, would
10 constitute elements of a forest policy.

11 In brief, we are concerned that the
12 Ministry is establishing a parallel process to the
13 Board hearing that will result in a province-wide
14 policy that we expect the Board decision to make or to
15 result in in a de facto way.

16 The Board will recall that there has been
17 discussion earlier in the hearing with regard to the
18 relationship or alleged difference between timber
19 management and forest management. I don't plan to
20 review all of that, it is there in the transcript, but
21 I just want to refer you to one paragraph from Mr.
22 Freidin which occurs in Volume 7 of the evidence,
23 dating May 18, 1988 at page 1,175 and 1,176. In
24 summary the transcript records:

25 "And just in terms of the forest versus

1 timber, I think the witnesses have
2 indicated this in their evidence, but the
3 term forest management and timber
4 management are synonymous, in my
5 submission...." and then he went on to
6 give the example of forest management agreements.

7 Now, it is the position of Forests for
8 Tomorrow, and it has been our goal in our
9 cross-examination and will be our goal in the
10 presentation of our case, essentially to build a forest
11 policy from the ground up, so to speak, by what we are
12 requesting that the Board require in the timber
13 management plans.

14 Now, we wish now to have a clear
15 indication from the Ministry as to what issues are not
16 within the ambit of a forest policy and which are and,
17 once and for all, what issues are within the ambit of
18 this EA.

19 If we receive that and have --

20 MR. MARTEL: Would you repeat that, Ms.
21 Swenarchuk?

22 MS. SWENARCHUK: Pardon me?

23 MR. MARTEL: Could you repeat that last
24 statemet for me, please?

25 MS. SWENARCHUK: Yes. We are asking for

1 a clear indication from the Ministry as to what issues
2 are not within the ambit of a forest policy and which
3 are and, finally, what issues are within the ambit of
4 this EA, and I will just add to that, and how that
5 differs from the issues to be considered in the forest
6 policy.

7 Now, if we receive that clarification and
8 have an opportunity to review it, we may then be
9 required to further raise the issue with the Board. We
10 are concerned that we are being put in the position of
11 having to choose whether to use our resources to
12 present a case before the Board, a process which is
13 ongoing and which we welcome, or whether to withdraw
14 and shift our priorities to a new and less desirable
15 process.

16 We are further concerned that the
17 millions of dollars spent in the years of endeavors of
18 all of us are about to be rendered irrelevant through
19 the development of a policy which will, in fact,
20 encompass and in some way replace the policy that we
21 assume was to be properly developed here.

22 Those are my submissions.

23 MADAM CHAIR: All right, Ms. Swenarchuk.

24 Well, we have the matter you wanted to
25 discuss with the Board defined before us now.

1 Are you suggesting that there is no need
2 for formal notice to other parties for the Board to
3 hear argument about this?

4 Are you suggesting that you would wait
5 for written clarification from the Ministry of Natural
6 Resources with respect to the issues you identified in
7 the latter part of your submission?

8 MS. SWENARCHUK: I would hope to hear
9 that elucidation today or very soon from the Ministry
10 since we are in the process of preparing a case.

11 I think we are not the only party that
12 has concerns about the matter and the reality is Dr.
13 Pearse's deadline. So I would prefer to also permit
14 those other counsel who have made themselves available
15 today to proceed with their submissions. Should other
16 counsel wish to make further submissions I, of course,
17 would have to objection to that.

18 MADAM CHAIR: I think we have a problem
19 in the sense that obviously some counsel are prepared
20 to make submissions and were given some warning about
21 it and others weren't. That's a situation that we
22 have.

23 Certainly I do see one person, one
24 counsel is here from out of town, Mr. Colborne, which
25 puts you I think in a somewhat different situation than

1 the other counsel who are here.

2 Mr. Freidin, do you have any sense at
3 this point of how long it would take your client to
4 provide a response to Forests for Tomorrow?

5 MR. FREIDIN: Madam Chair, before I
6 answer that, I echo the concern that has been raised by
7 Mr. Cosman.

8 I do not believe it is appropriate for me
9 to respond at the moment. I have no instructions on
10 this matter, I had no idea what the relief being sought
11 was. I need time not only to consider what the
12 response might be, but also whether it is appropriate
13 to take instructions as to whether or not my response
14 to the Board will deal with the issue as to whether the
15 question which has been raised by my friend is an
16 appropriate one to be raised in this forum at all.

17 It may very well be that I receive
18 instructions and I will want to make submissions that
19 the question being asked is not one that the Board
20 should hear submissions on for any number of reasons.

21 So my submission -- my short answer to
22 you is, I have no instructions, I do not know when I
23 can receive instructions on the preliminary matter as
24 to whether I will take the position -- as to whether my
25 client will take the position as to whether the Board

1 should order or deal with these submissions at all. It
2 certainly will not be before the summer recess. I can
3 say no more.

4 MR. COSMAN: Madam Chair, I've tried to
5 put myself, as you know, in a position in order to be
6 able to respond to it today, but fortunately I was
7 unsuccessful. I will certainly be in a position to
8 respond and make submissions on the first date that the
9 Board appoints in that regard. It could be the first
10 day back on that basis. We have only got one more day
11 of hearing, in any event, and then we are gone.

12 MADAM CHAIR: We are not precluded from
13 hearing a procedural motion during the next six weeks.

14 MR. COSMAN: I don't think there will be
15 anybody around. Oh, I know, I was thinking of when
16 people --

17 MADAM CHAIR: There will be a few people
18 here.

19 MR. COSMAN: All right.

20 MADAM CHAIR: Ms. Swenarchuk, what was
21 the reason that the counsel for the Industry and the
22 Ministry of Natural Resources weren't provided with any
23 warning about being prepared in terms of arguing this
24 evening?

25 MS. SWENARCHUK: When I became aware of

1 Mr. Cosman's concern, I did leave a message for him to
2 call me, which perhaps he didn't receive and I would
3 have been happy to talk to him about it then.

4 MR. COSMAN: I have been at my office
5 every evening and I have a machine and there was no
6 message.

7 MS. SWENARCHUK: No, I left the message
8 here because I knew you were at the hearing.

9 As per earlier, last Friday, the reason
10 the letter did not set out a specific request at that
11 time is that, amongst the three of us, various parties
12 were seeking instructions themselves at that time.

13 MADAM CHAIR: Well, Ms. Swenarchuk, how
14 do you see yourself getting out of this dilemma in
15 terms of we are going on vacation and the Board is
16 adjourned as of tomorrow?

17 It may be very difficult to get all the
18 parties or any of the parties back within the next
19 week. I would think it would take a couple of days to
20 prepare submissions on this matter..

21 What do you see the Board doing?

22 MS. SWENARCHUK: Well, I was interested
23 in the comment a moment ago that it would be possible
24 to hear a procedural matter after the end of this week.

25 We are certainly available to proceed at

1 any time that is convenient for the Board. It would
2 extremely helpful to us to have a response to our
3 question from the Ministry before we are required to
4 respond to Dr. Pearse.

5 MR. MARTEL: Not everyone is available.

6 MS. SWENARCHUK: Yes, that's correct.

7 MR. MARTEL: That's the problem.

8 MS. SWENARCHUK: As I say, we would be
9 available at whatever time is convenient for you.

10 I might also add that Mr. Colborne is
11 availability today was part of the reason that we
12 wanted to proceed with it today.

13 So we will simply make ourselves
14 available at whatever time is convenient for the Board.

15 MADAM CHAIR: All right.

16 Mr. Hunter?

17 MR. HUNTER: If I might, my purpose in
18 being here today was I think really a matter of
19 courtesy to the Board and to my colleagues, recognizing
20 that the Board was going not going to be sitting for
21 July.

22 I really wanted to be here today to say
23 that it may be necessary for us to bring a formal
24 motion before the Board with respect to this matter
25 upon your return in August.

1 Many of the issues that we are concerned
2 about have been addressed by Ms. Swenarchuk and I don't
3 feel any need to repeat them.

4 To put the matter in my context, I have
5 been asked by my client, and justifiably so, a series
6 of questions; what is the relationship between the
7 initiative by the government in this hearing, what is
8 the role and import of the policy that will be
9 developed by the government, is that policy a matter
10 that will be brought before this Board.

11 For a moment when I reviewed this issue I
12 had the devilish sense that MNR was attempting to split
13 its case, but upon reflection I thought they wouldn't
14 dare do that.

15 But, in any event, like Forests for
16 Tomorrow, we are caught in a position of resource --
17 trying to manage our resources. My client has put the
18 question to me, what should they be saying and doing in
19 the face of the Pearse inquiry by virtue of the fact
20 that we are appearing before this Board.

21 As I say, I am not making submissions. I
22 share with Ms. Swenarchuk the need for an explanation
23 from the Ministry as a courtesy, I think, their
24 responses or their response to our questions. They may
25 choose not to do so and that would be an interesting

1 development, for them to take that position.

2 One of the other matters I think that
3 should be addressed is, I have alluded to this, when
4 this report is finished, then what is its status, how
5 does it stand as against your recommendations and as
6 against your decisions. Is this a matter of government
7 policy which will be examined or will your report be
8 examined in the light of that particular policy; in
9 other words, which takes precedent.

10 So these are questions which I suspect
11 that we will be putting before the Board because we are
12 about to engage in an extensive exercise with respect
13 to the preparation of our own case. I think it is
14 vital from our perspective to know, as I have indicated
15 before, or to determine what is the relationship
16 between these proceedings and the proceedings that have
17 now been established by the government.

18 So I just wanted to put that on the
19 record and I think it would be appropriate for us to
20 wait and see what Mr. Pearse has said in August, one.
21 In fact, it very well may be that we would make
22 submissions to Mr. Pearse that he ought not to
23 recommend an initiative by the government.

24 MR. MARTEL: That's the question I was
25 going to raise, at what stage.

1 I think my colleague and I think there is
2 enough to be heard, and we are not only strapped by
3 time, but the fact that the parties represented have to
4 go and get instructions and it is now 4:30 of the clock
5 and rather difficult to get instructions at this time
6 of night to prepare to go tomorrow and to get any type
7 of instruction by tomorrow when people have to consider
8 the matters that have been raised by Ms. Swenarchuk.

9 I am just trying to get a handle of the
10 paramountcy of us hearing it tomorrow night as opposed
11 to some time later on, not closing the door to any type
12 of presentation to us, but when can it be done in the
13 most appropriate manner by all parties, I guess, is
14 what we need to hear.

15 MR. COSMAN: Madam Chair, I might be able
16 to help. I don't know if it is possible, but I know
17 that on our legal team -- in terms of getting
18 instructions, I quite agree. Given the time and the
19 notice that we have, we wouldn't be in a position to be
20 able to come back to you, having consulted with our
21 associations, to make submissions by tomorrow.

22 However, the earliest we are back is
23 August, but I am back in the city in the week of July
24 23rd. I don't know how that fits with other people,
25 but I just offer that.

1 MR. MARTEL: Mr. Cosman, some of us, like
2 two of us, have been at every day of the hearing while
3 other people have had an opportunity to leave on
4 occasion and I don't think I am prepared, quite
5 frankly, to come back.

6 MR. COSMAN: I suggested the first day of
7 the hearing. I was just trying to be helpful, Mr.
8 Martel --

9 MR. MARTEL: I appreciate your
10 generosity.

11 MR. COSMAN: If I would have known I
12 would be here today making submissions.

13 MR. HUNTER: Personally I would prefer to
14 wait and see what Mr. Pearse is recommending, and the
15 basis of that report may in itself provide the
16 substantive basis for motions to be brought before you.
17 I don't know if Ms. Swenarchuk agrees with that or not.

18 MADAM CHAIR: Well, Ms. Swenarchuk is in
19 a slightly different position; that is, she is putting
20 her case together this minute and and printing it up
21 and doing various...

22 MR. HUNTER: I appreciate that and we are
23 right behind her. So I think we may have the luxury of
24 being able to wait another month and in that period of
25 time attempt to determine what the intent of the

1 government is with respect to this policy, but I am
2 sympathetic to her position and if I were in her
3 position I would be doing exactly the same things and
4 perhaps pushing a little harder than she is.

5 MADAM CHAIR: Ms. Swenarchuk?

6 MS. SWENARCHUK: It appears there is no
7 alternative but to wait until August, unless of course
8 Mr. Freidin can seek instructions and, if possible,
9 provide us with a response in writing before that time.
10 It might be helpful to us in terms of allocation of
11 resources over the next month.

12 MADAM CHAIR: Do you feel an urge to be
13 helpful, Mr. Freidin?

14 MR. FREIDIN: I can't respond, I have no
15 instructions and I hear what she is saying. I can't
16 make any submissions.

17 MADAM CHAIR: But is there a possibility
18 that you could approach your client tomorrow to
19 indicate some course of action that might be
20 undertaken?

21 I am not asking for an answer in terms of
22 what is being requested, but just an answer to whether
23 or not the Ministry is prepared to respond even would
24 be helpful.

25 MADAM CHAIR: Mr. Freidin, with respect

1 to Mrs. McLeod's comment in her letter, obviously for
2 her to be able to make the statement that Pearse's
3 policy review will not duplicate or pre-empt the
4 ongoing EA dealing with timber management suggests that
5 there is some reasoning behind that.

6 If it were possible to make that
7 reasoning clear to the parties at this hearing, I think
8 that would be a beginning step to answering some of Ms.
9 Swenarchuk's concerns.

10 MR. FREIDIN: Madam Chair, I will take
11 under advisement the suggestion that we communicate
12 with Ms. Swenarchuk quite apart from this forum. I
13 think that's all I can say.

14 MADAM CHAIR: Mr. Colborne?

15 MR. COLBORNE: Madam Chair, not with
16 respect to the substantive issue, but with respect to
17 the comments over the last few minutes, it seems to me
18 not appropriate that the proponent would be saying that
19 we are unable to provide the clarification requested by
20 some of the parties here because if this matter has
21 come before the Board in a way that has not provided
22 notice to some of the parties, and that seems to be
23 clear in the case of Mr. Cosman's clients, that is
24 because the proponent did not have the good sense or
25 courtesy to see the obvious connection between the two

1 which you noted yourself, Madam Chair, is on the face
2 of the correspondence and advise the other parties and
3 said: Look there is something going on here and we
4 want to tell you what the relationship is.

5 So I don't think that the Ministry of
6 Natural Resources can shelter under Mr. Cosman's
7 concern because the Ministry of Natural Resources is
8 the origin of the lack of notice problem and that it
9 would be entirely in order for the Chair to suggest in
10 very strong terms to the Ministry of Natural Resources
11 that they do in fact and very, very quickly provide the
12 clarifications that have been requested because they
13 caused the problem in the first place.

14 MS. SWENARCHUK: I obviously don't
15 disagree with that comment, Madam Chair.

16 MADAM CHAIR: Thank you, Ms. Swenarchuk.

17 Well, I don't think there is much more
18 the Board can listen to tonight. We are going to go
19 away and discuss this and inform the parties first
20 thing in the morning about what we think can be done
21 and what we would schedule next.

22 With respect to Mr. Colborne joining us
23 from Thunder Bay, I don't know if Mr. Cosman and Mr.
24 Freidin have any objections to you adding anything to
25 what you have said already, or is it your intention to

1 support the other parties if the Board sets a date for
2 hearing argument on this?

3 MR. COLBORNE: I wanted to make brief
4 submissions. Will you be opening the hearing tomorrow
5 morning at 8:30? What is the time of commencement
6 tomorrow morning?

7 MADAM CHAIR: Our hours are from nine to
8 four now, Mr. Colborne.

9 MR. COLBORNE: I am just wondering if the
10 view that you express in the morning might have some
11 effect on whether I should make submissions this week
12 or at some later time. I don't want to jump in and in
13 fact make my submissions now if it is not the right
14 time to do so.

15 MADAM CHAIR: Let's leave it to the
16 morning then.

17 MR. COLBORNE: Thank you.

18 MADAM CHAIR: Are there any other
19 comments?

20 MADAM CHAIR: Tomorrow morning, as Mr.
21 Martel has pointed out, if Mr. Colborne is going to be
22 in attendance tomorrow morning, then we will spend a
23 few minutes at the beginning of the day discussing a
24 procedural matter, which is not something we like to
25 do, but we will do that tomorrow morning so it can be

1 cleared up before we have our summer adjournment.

2 MR. COSMAN: This procedural matter?

3 MADAM CHAIR: Yes, Mr. Cosman.

4 MR. COSMAN: All right. The only
5 difficulty -- and, again, you will appreciate that I
6 tried to put myself in the position so that I could
7 make submissions today.

8 The only difficulty is that if one party
9 or other parties make submissions now, first of all, in
10 my view it would be inappropriate, but, secondly, the
11 Board shouldn't be trying to give any direction to
12 anyone in the absence of having heard submissions from
13 the parties.

14 What happens is, if someone wants the
15 Board to do something, you bring it before the Board
16 either formally by notice of motion or at least by a
17 letter explaining what you are doing, what you are
18 seeking by way of an order from the Board so the
19 parties can consider it and then make submissions.

20 What I am concerned about is that you
21 could at 9:00 tomorrow -- you should not be forced by
22 this circumstance to put yourself in a position of --

23 MADAM CHAIR: We are not making any
24 decision, Mr. Cosman. In fact, I would think that you
25 and Mr. Freidin are in a very good position at this

1 point to be fully informed of what the parties are
2 going to be requesting of the Board.

3 The only decision we are going to make
4 tonight is what date we might set--

5 MR. COSMAN: Oh, I see.

6 MADAM CHAIR: --in order to hear argument
7 on the motion.

8 MR. COSMAN: That is fine.

9 MADAM CHAIR: And sort of advice we might
10 give to Mr. Freidin in the meantime about getting
11 instructions from his client, but that's what we were
12 talking about.

13 MR. COSMAN: All right.

14 MADAM CHAIR: Now, the matter of Mr.
15 Colborne is something different because we don't like
16 to require people to travel from all over this province
17 to come here and attend a procedural session.

18 If you think it over this evening and
19 decide that whatever Mr. Colborne might have to say
20 would simply assist you in preparing your own
21 submission, I would like you to think seriously about
22 whether you would object to listening to some of his
23 submissions or you would require him to be called down
24 six weeks or eight weeks from now to say the same thing
25 to us, and Mr. Colborne will be in a position of either

1 making some submissions now or making them later on and
2 he can decide that in the morning when he hears what we
3 have decided or how we have decided to go ahead with
4 this.

5 MR. COLBORNE: Madam Chair, I hope we are
6 not belaboring this too much, but if I understood Mr.
7 Cosman correctly he is saying that without a motion
8 nothing can be directed from the Board to any of the
9 parties to do something, and if it's that purely
10 technical with a capital T, I could be purely technical
11 too with a capital T and stand here and say: I am
12 making a motion, I am making a motion orally, I am ask
13 asking for leave to do it without notice and there is
14 nothing in the rules of procedure of this tribunal that
15 I know of preventing me from doing that and, therefore,
16 the capital T technical objection is overcome.

17 MR. COSMAN: The Board rules do speak to
18 it and I am not making a technical objection at all.

19 As you know, Madam Chair, I said if
20 someone had let me know informally I might have been
21 able to assist you tonight.

22 MADAM CHAIR: Ms. Swenarchuk?

23 MS. SWENARCHUK: Yes. I just recall I
24 don't believe I ever received a Notice of Motion,
25 although I requested one, when my conduct was a matter

1 the Board was considering.

2 MR. COSMAN: I can't speak to that. I
3 thought there was. There was written notice.

4 MS. SWENARCHUK: There was a letter which
5 never specified the alleged misconduct.

6 MR. COSMAN: I'm sorry, I wasn't involved
7 in that, but if there wasn't, there should have been.

8 MS. SWENARCHUK: That's right.

9 MR. COSMAN: I don't say there wasn't.

10 MADAM CHAIR: All right. We will
11 adjourn until tomorrow morning at nine o'clock.

12 MS. SWENARCHUK: Might I, if that matter
13 is completed, ask one question.

14 MADAM CHAIR: Yes.

15 MS. SWENARCHUK: You will recall that I
16 wrote to the Board last week with regard to the calling
17 of Dr. Thomas and asked whether the matter would be --
18 and requested that the matter be settled as soon as
19 possible so that we would know what is happening. I
20 have not heard a response yet to that question.

21 MADAM CHAIR: I understand that Mr.
22 Turkstra is trying to get in touch with Mr. Hanna, who
23 has not been seen in the last day or so at the hearing,
24 but we will get to it as quickly as we can and we will
25 settle it this week.

1 MS. SWENARCHUK: And I would like to
2 reiterate the concern I raised in the letter about the
3 change that occurred outside the hearing room in the
4 procedure that the Board had established in the hearing
5 room, and I hope that that won't happen in the future
6 with regard to understandings that the parties receive
7 from the Board.

8 MADAM CHAIR: Well, I don't think the
9 Board will make that commitment. I think that we may
10 very well think about something we've decided to do, we
11 may receive advice from Mr. Turkstra, we may see things
12 differently. If it is a matter that is somewhat
13 different from this, then certainly we would call the
14 parties back together and talk about it, but at that
15 time it was the best way to handle it.

16 Anything else?

17 (no response)

18 Thank you. See you at nine in the
19 morning.

20
21 ---Whereupon the hearing adjourned at 5:45 p.m., to be
22 reconvened Thursday, June 28, 1990 commencing at
23 9:00 a.m.
24
25

